## **Agency Proposed Budget**

The following table summarizes the total executive budget proposal for the agency by year, type of expenditure, and source of funding.

Agency Proposed Budget								
	Base	PL Base	New	Total	PL Base	New	Total	Total
	Budget	Adjustment	Proposals	Exec. Budget	Adjustment	Proposals	Exec. Budget	Exec. Budget
Budget Item	Fiscal 2004	Fiscal 2006	Fiscal 2006	Fiscal 2006	Fiscal 2007	Fiscal 2007	Fiscal 2007	Fiscal 06-07
FTE	355.03	16.75	2.75	374.53	16.75	2.75	374.53	374.53
Personal Services	15,630,089	2,571,026	110,506	18,311,621	2,547,629	110,208	18,287,926	36,599,547
Operating Expenses	24,154,345	37,752,198	5,214,609	67,121,152	780,219	3,208,459	28,143,023	95,264,175
Equipment	102,112	2,563	0	104,675	2,563	0	104,675	209,350
Grants	1,457,581	316,599	0	1,774,180	431,998	0	1,889,579	3,663,759
Benefits & Claims	0	4,100,000	0	4,100,000	0	0	0	4,100,000
Transfers	0	0	0	0	0	0	0	0
Total Costs	\$41,344,127	\$44,742,386	\$5,325,115	\$91,411,628	\$3,762,409	\$3,318,667	\$48,425,203	\$139,836,831
General Fund	3,053,744	1,075,753	0	4,129,497	1,043,196	0	4,096,940	8,226,437
State/Other Special	17,829,392	35,208,772	2,731,525	55,769,689	(1,238,764)	2,159,563	18,750,191	74,519,880
Federal Special	20,460,991	8,457,861	2,593,590	31,512,442	3,957,977	1,159,104	25,578,072	57,090,514
<b>Total Funds</b>	\$41,344,127	\$44,742,386	\$5,325,115	\$91,411,628	\$3,762,409	\$3,318,667	\$48,425,203	\$139,836,831

## **Agency Description**

The Department of Environmental Quality is responsible for regulating air quality, water quality, underground storage tanks, automobile wrecking facilities, hazardous waste facilities, solid waste management systems, and mining operations; and for siting and needs analyses of large-scale energy facilities. In addition, the department is the lead agency for reclamation and clean-up activities related to the federal and state superfund programs, leaking underground storage tanks, and regulation and permitting of mining conducted on private, state, and federal lands.

# **Agency Highlights**

# Department of Environmental Quality Major Budget Highlights

- 19.50 FTE are being requested to address increased workload due to a federal district court order on TMDLs and increased permitting workload
- Funding for operating expenses is requested due to vacancies in the base year
- State special revenue increases primarily due to:
  - \$26.4 million in reclamation forfeitures
  - \$5.5 million in bond proceeds
  - \$4.1 million of orphan share funds
- Federal funds increase primarily due to:
  - \$1.4 million for superfund multi-site grant
  - \$1.5 million of superfund performance partnership dollars
  - \$4.4 million of abandoned mine land grants

## **Major LFD Issues**

 DEQ has significant issues with recruitment and retention of employees

## **Funding**

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

	Total A	Agency Fundin	g								
2007 Biennium Executive Budget											
Agency Program General Fund State Spec. Fed Spec. Grand Total Total %											
10 Central Management Program	\$ 634,964	\$ 4,075,501	\$ 304,741	\$ 5,015,206	4%						
20 Plan.Prevent. & Assist.Div.	5,130,934	1,917,028	20,814,088	27,862,050	20%						
30 Enforcement Division	801,664	503,573	715,773	2,021,010	1%						
40 Remediation Division		13,543,374	20,876,176	34,419,550	25%						
50 Permitting & Compliance Div.	1,658,875	53,293,347	14,379,736	69,331,958	50%						
90 Petro Tank Release Comp. Board		1,187,057		1,187,057	1%						
Grand Total	\$ 8,226,437	\$ 74,519,880	\$ 57,090,514	\$ 139,836,831	100%						

The department's largest source of funding at 53.3 percent is state special revenue. This revenue is derived from:

- Fees
- Fines
- Proceeds from the sale of bonds
- Interest from the resource indemnity trust.

Federal revenue is provided through the US Environmental Protection Agency (EPA) performance partnership grant, the Superfund program, and other federal grant sources. The partnership grant is a block grant to the state to provide funding for work for which EPA traditionally made individual grants. Federal grants vary in match requirements. Wetland grants require 25 percent match, drinking water capital improvement requires 20 percent match, and non point source funding can require as much as 40 percent match. General fund provides 5.9 percent of the department's funding. General fund is utilized for personal services and related operating expenses such as travel, communication, and equipment.

# **Biennium Budget Comparison**

The following table compares the executive budget request in the 2007 biennium with the 2005 biennium by type of expenditure and source of funding. The 2005 biennium consists of actual FY 2004 expenditures and FY 2005 appropriations.

Biennium Budget Comparison								
	Present	New	Total	Present	New	Total	Total	Total
	Law	Proposals	Exec. Budget	Law	Proposals	Exec. Budget	Biennium	Exec. Budget
Budget Item	Fiscal 2006	Fiscal 2006	Fiscal 2006	Fiscal 2007	Fiscal 2007	Fiscal 2007	Fiscal 04-05	Fiscal 06-07
FTE	371.78	2.75	374.53	371.78	2.75	374.53	355.03	374.53
Personal Services	18,201,115	110,506	18,311,621	18,177,718	110,208	18,287,926	32,941,807	36,599,547
Operating Expenses	61,906,543	5,214,609	67,121,152	24,934,564	3,208,459	28,143,023	77,468,532	95,264,175
Equipment	104,675	0	104,675	104,675	0	104,675	198,737	209,350
Grants	1,774,180	0	1,774,180	1,889,579	0	1,889,579	3,046,285	3,663,759
Benefits & Claims	4,100,000	0	4,100,000	0	0	0	1,100,000	4,100,000
Transfers	0	0	0	0	0	0	0	0
Total Costs	\$86,086,513	\$5,325,115	\$91,411,628	\$45,106,536	\$3,318,667	\$48,425,203	\$114,755,361	\$139,836,831
General Fund	4,129,497	0	4,129,497	4,096,940	0	4,096,940	6,217,300	8,226,437
State/Other Special	53,038,164	2,731,525	55,769,689	16,590,628	2,159,563	18,750,191	65,701,005	74,519,880
Federal Special	28,918,852	2,593,590	31,512,442	24,418,968	1,159,104	25,578,072	42,837,056	57,090,514
Total Funds	\$86,086,513	\$5,325,115	\$91,411,628	\$45,106,536	\$3,318,667	\$48,425,203	\$114,755,361	\$139,836,831

## **New Proposals**

The "New Proposal" table summarizes all new proposals requested by the executive. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
-		Fis	scal 2006				F	Fiscal 2007		
		General	State	Federal	Total		General	State	Federal	Total
Program	FTE	Fund	Special	Special	Funds	FTE	Fund	Special	Special	Funds
DD 1009 Concentr	atad Animal Faad	On Env Impo	at Stamant OTO							
DP 1008 - Concentra 10	0.00	Op Env impa	362,424	0	262 121	0.00	0	0	0	0
DP 2012 - BLM Fur		ulity Monito		U	362,424	0.00	U	U	U	U
2012 - BEM Fui	0.00	anity Monitor ()	0	40,000	40,000	0.00	0	0	40,000	40,000
DP 2016 - Wetlands		-	U	40,000	40,000	0.00	U	U	40,000	40,000
20 20	0.00	0	0	330,000	330,000	0.00	0	0	330,000	330,000
DP 4005 - Brownsfi		-	O	330,000	330,000	0.00	O	O	330,000	330,000
40	0.00	0	0	950,000	950,000	0.00	0	0	950,000	950,000
DP 4007 - Lust Cost		al Authority	0	,,,,,,,,,	250,000	0.00	· ·	· ·	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	,,,,,,,,
40	0.00	0	200,000	0	200,000	0.00	0	0	0	0
DP 4012 - Libby As	sbestos Troy Bienr	nial Authority			,					
40	0.00	0	0	1,259,326	1,259,326	0.00	0	0	0	0
DP 4013 - CERCLA	Bond Sales			, ,	, ,					
40	0.00	0	2,000,000	0	2,000,000	0.00	0	2,000,000	0	2,000,000
DP 5020 - Hazardou	s Waste - Browns	field Biennial	Authority							
50	0.00	0	0	175,000	175,000	0.00	0	0	0	0
DP 5022 - Opencut A	Additional Staff									
50	2.75	0	169,101	11,564	180,665	2.75	0	159,563	11,404	170,967
DP 5026 - RHODIA	Settlement									
50	0.00	0	0	(172,300)	(172,300)	0.00	0	0	(172,300)	(172,300)
Total	2.75	\$0	\$2,731,525	\$2,593,590	\$5,325,115	2.75	\$0	\$2,159,563	\$1,159,104	\$3,318,667

## **Agency Issues**

Recruitment and Retention of employees

#### The Problem

The department has mandated activities and duties to ensure that environmental regulations are being met, environmental permits are being released, and reclamation activities are occurring as planned. These duties are directly impacted by position vacancies. Impacts can include a backlog in permitting, delays in total maximum daily load (TMDL) completions, and delay of computer integration.

During the 2003 biennium the department moved to pay plan 20. Pay plan 20 is a competency based pay plan set up with broad pay bands. The purpose of the plan is to provide managers with a mechanism to reward for demonstrated

competencies and service, as well as offer higher entry-level salaries to recruit qualified employees. The department was able to provide employees a pay adjustment to reward for length of service, performance, and job type. New positions were recruited into broadband pay plan as initial entry-level salaries were able to attract qualified candidates.

The success of pay plan 20 has been limited. The initial boost to salaries appears to have provided short-term relief to a problem the department has experienced over the past two decades. The increase in entry-level salaries has improved the agency's ability to recruit qualified employees, but it has not alleviated retention issues. Salaries were adjusted at the implementation of pay plan 20, but the ability to adjust salaries has been limited due to financial constraints of the agency.

Requests for restoration of the base budget due to vacancies in the base year have been a constant in the department's budget request for at least the past five legislative sessions. Adjustments have been made to the budget to address the potential need for funding if vacancies were filled. Although positions do get filled, the cyclical turnover creates the need to request the adjustment in the next session. Figure 1 illustrates proposed expenditures related to vacancies in the base year and for new FTE.

		Figure 1					
	Department	of Environmen	tal Quality				
Summary	of Staffing rel	lated expenses i	in Decision Page	ckages			
Adjustments for Vacancies	Vacancies or	Fiscal 2006		Staff %	Fiscal 2007	Staff	Staff %
Planning, Prevention and Assistance Division	FTE	Total	Staff Related	of Total	Total	Related	of Total
PL2001 Water Quality Planning Bureau Operations	Vacancies	\$473,848	\$92,196	19%	\$464,765	\$88,073	19%
PL2003 Technical and Financial Assistance Bureau	Vacancies	342,089	89,616	26%	343,193	88,496	26%
PL2004 Air Energy and Pollution Prevention Bureau	Vacancies	518,557	158,603	31%	517,325	158,228	31%
Remediation Division							
PL4001 Hazardous Waste Cleanup Operations	Vacancies	100,962	35,192	35%	54,507	35,192	65%
Permitting and Compliance Division							
PL5003 Environmental Management Bureau Operation	Vacancies	51,758	44,635	86%	54,980	47,857	87%
PL5005 Public Water & Subdivisions Operations	Vacancies	534,411	192,350	36%	548,499	206,438	38%
PL5006 Water Protection Bureau Operations	Vacancies	59,037	52,037	88%	63,508	56,508	89%
Subtotal		\$2,080,662	\$664,629	32%	\$2,046,777	\$680,792	33%
New FTE							
Planning, Prevention and Asssitance Division							
PL2007 Water Quality Monitoring TMDL Completio	9.00	2063584	633336	31%	2062365	632117	31%
Permitting and Compliance Division							
PL5010 Water Protection Bureau Waterwater Permitt	5.00	371,072	368,072	99%	342,079	339,079	99%
PL5011 Air Permitting of Oil and Gas Production	3.00	401,137	239,101	60%	362,113	217,538	60%
PL5015 Public Water Supply & Subdivisions FTE	2.75	141,257	141,257	100%	132,135	132,135	100%
NP5022 Opencut Additional Staff	2.75	180,665	180,665	100%	180,665	180,665	100%
Subtotal		\$3,157,715	\$ <u>1,562,431</u>	\$ <u>0</u>	\$3,079,357	\$ <u>1,501,534</u>	<u>49</u> %
Total Requests Related to Staffing Issues	_	\$5,238,377	\$2,227,060	43%	\$5,126,134	\$2,182,326	43%

## The Effect of Vacancies on Department Activities

In terms of department activities, the vacancy rate can have a direct correlation on the amount and type of work that gets accomplished. Present law adjustments included in the executive budget identify areas such as an increased backlog of bond releases; delays in contracts, projects, and technical training; database maintenance setbacks; postponement of monitoring work of mines, discharges and energy facilities; and the hold up of plat and plan reviews. The vacancies make it difficult for the department to meet work goals, federal mandates, and court orders.

Local economies are also directly impacted by the delays. For example, plat review is required for subdivision development to assure that adequate sanitation facilities can be constructed, operated, and maintained to support each parcel. Upon receipt of the application the department has 60 days to take final action. If the application is not complete

it is returned to the applicant. The applicant may re-submit, but the 60 day time period begins again and development of the parcel is further delayed. With vacancies, the applications are being pushed to the 60 day limit and training of developers, county officials, and engineers goes by the wayside. If the department was able to maintain a staff at full capacity, plan reviews could be completed well within timelines and training could be completed. As training is completed, applications would improve and the department would not be in the position to return the applications and delay development further.

## **Current Activities**

The department utilizes overtime, temporary service workers, contracted services, work-study programs, and graduate students to alleviate some of the pressures of the vacancies. While this does not work for all employee types, it has allowed the department to manage the critical workload. However, this is not a long term solution to the vacancy issues. In addition, as the workload of the department changes, the need to fill vacancies becomes more apparent. Add to this the current budget request to add 19.50 FTE for various activities, and the realism of recruitment and retention comes to the forefront. The department has struggled to recruit and retain employees for a number of years, and adding FTE may compound the problem.

Increased retention of employees would alleviate the need to restore base level expenditures. Innovative options such as education reimbursement are being researched to assist in retention efforts. Without improved retention, the department becomes a training ground for individuals to leave for higher paying private sector jobs, institutional knowledge is lost and expenses related to turnover continue to rise.

## **Potential Solutions**

The vacancy rate at the department impacts the ability to meet the needs of the public and to protect, remediate and monitor our environmental resources. In the extreme, lack of adequate staffing could potentially place our public water supply at risk.

There are short-term and longer-term options for legislative consideration. In the short term, the legislature might:

- Provide funding for contracted services in lieu of FTE. While contracted services generally cost more than state FTE, the costs of vacancies, including recruitment costs and delays, must also be considered
- Provide funding for FTE for critical mandated functions only, which would require a prioritization of functions
- Direct the agency to expand retention efforts to include education reimbursement

While any of these options might be utilized, a longer-term approach is warranted. Among the options the legislature might pursue include:

- Implement changes in mandated activities to meet staffing levels by extending timelines and streamlining applications
- Eliminate department programs that are not mandated by state or federal law, such as waste reduction program, major facility siting act, and the federal biomass energy program, in order to concentrate efforts and resources on mandated activities. Along with a concentration of the state's effort and role, this option could then involve utilizing resources to compensate employees at a level necessary to recruit and retain qualified staff.

The longer-term options would require significant study. Therefore, the legislature may wish to request an interim study bill to address these issues and report to the next legislature.

Total Maximum Daily Load (TMDL)

## Background:

A TMDL is a plan to establish the maximum amount of pollutant load that can flow into a water body from point sources (pollution discharged from an identifiable source), non point sources (pollution from various indefinable sources), and natural background sources without exceeding state water quality standards. Both state and federal regulations require the Department of Environmental Quality to develop TMDLs for all waters that are not meeting water quality standards. The list of waters needing TMDLs is referred to as the 303(d) list after the section of the federal Clean Water Act (CWA) requiring the creation of the list. The list is to be created every two years. The 303(d) list established in 2002, identified 527 water bodies that did not meet state water quality standards.

After a TMDL is completed, the federal Environmental Protection Agency (EPA) must approve it. If approved, the water body is removed from the list and the restoration plan is implemented. For point sources, the reduction targets are incorporated into discharge permits and become regulatory. Non point sources are dealt with through voluntary clean-up actions of landowners and water users.

A monitoring program must be in place to determine whether compliance with water quality has been achieved. Five years after the plan has been approved, DEQ must determine if it worked. Monitoring data is evaluated and if water quality is still impaired more time may be needed, new best management practices may be tried, or a new plan is written.

# History of TMDL in Montana:

The federal Clean Water Act became law in 1972. Until recently many states and the EPA had not developed many TMDLS. In fact, Montana legislation to establish the TMDL program for state waters was not passed until the 1997 legislature. Citizen organizations began bringing legal action against the states and the EPA, seeking listing of waters and the development of TMDLs. Montana is one of 38 states under court order or consent decrees to ensure that the EPA or the state establishes TMDLs.

In June of 2000, the US District Court of Montana ordered the EPA to work with the state to develop and adopt a schedule that would result in developing all necessary TMDLs for waters on the states 1996 303(d) list by May 5, 2007. The schedule was completed in October 2000 and established the guidelines for developing TMDLs by the court

imposed deadline. As part of on-going negotiations, the court agreed to an alternative schedule in November of 2004. The department and the EPA have agreed to complete all 1996 water body reassessments and full TMDL development for eight western watersheds by 2007, and complete the remaining TMDLs by 2012. The progress on TMDLs is illustrated in table 2.

This schedule means that the department needs to complete 1,634 of 1,919 total TMDLs before 2012 to comply with the court order. The department is requesting an additional \$2.5 million in funding, and 9.00 FTE in order to comply with the court order.

Fig	gure 2								
Department of Environmental Quality									
TMDL Schedule*									
TMDLs Completed 1997-2004 285									
TMDLs to Complete	By 2007	634							
TMDLs to Complete	By 2012	1000							
Total TMDLs 1919									
*Estimated based on assessmelevels	ent and reassessment	activity							

	Figure 3										
Department of Environmental Quality											
TMDL Appropriations and Expenditures											
Biennium	Appropriated	Expended	Difference								
2001	\$2,081,173	\$1,959,585	\$121,588								
2003	4,199,177	3,150,068	1,049,109								
2005*	4,641,495	2,394,591	2,246,904								
2007**	9,000,000										
* expenditure ** requested											

Figure 3 illustrates the amount of funding appropriated and expended on TMDL activities since the 2001 biennium. Several things are apparent from the figure:

- Prior to the 2005 biennium, when the state faced significant funding challenges, the legislature has provided increasing support for TMDL activities to address the court order and deadline
- Expenditures have been significantly less than appropriated
- The department is requesting significant increases in funding for the 2007 biennium



Montana is under court order to complete TMDLs, initially by 2007. However, the state has experienced significant problems meeting previously established timelines, and the date has been extended to 2012. The executive is again requesting a significant increase in resources to complete this task within the timelines.

Currently the TMDL program consists of 20 FTE. Eight work on TMDL development, six on TMDL reassessments and six provide support in the areas of water quality standards and data management. As pointed out in the previous issue, the department has had major recruitment and retention issues that have in some measure hampered this effort.

In order to address some of the issues, the department has done the following:

- Within current resources, the department has made organizational changes to increase efficiency of the TMDL program
- Utilized graduate and work study students to assist with on-the-ground field work
- Under the direction of Environmental Quality Council (EQC), the department has started to utilize a modeling approach to develop TMDLs

It is apparent from the past history of this effort that adding the authority to fund an increase in FTE without addressing some of the underlying issues that is hampering the effort, recruitment and retention of staff, and the staff intensive nature of the current field work, may not be the most productive use of general fund. The modeling effort could provide some relief to the labor intensive on-the-ground TMDL work. The department is collaborating with federal agencies, tribes, industry, special interest groups, and citizens to foster a common understanding of the technical aspects of model development and to design and share workable approaches to watershed modeling for the Tongue/Powder/Rosebud watershed. The outcome of this activity could provide a significant tool for meeting TMDL completion in a timely manner. If computerized modeling is scientifically defensive, it could be used in lieu of on-the-ground field work resulting in a less costly more timely TMDL completion. The legislature may wish to consider one or more of the following options:

- Require a staff recruitment and retention plan that addresses how the department will increase its chances of success in filling and retaining any current and requested FTE
- Require an update from the department on how the modeling effort will be used to meet the court imposed deadline
- Require the department to report on the potential for and the potential costs of contracted services in lieu of additional FTE
- Require the department to provide routine updates on TMDL progress to the EQC

LFD ISSUE CONT. TMDL activities are on going, but the activity level may significantly decrease after the court-imposed deadline is completed. The implemented water quality plans would have to be monitored and any subsequently listed impaired water would need a TMDL, but the staffing level may not need

to be at the increased level needed to meet the deadline.

Therefore, the legislature may wish to make increases in funding one-time-only to allow for program funding fluctuations as they occur. This will also provide the legislature the opportunity to review the progress of TMDLs during subsequent legislative sessions.

# Federal Funding

The federal government supplies 40 percent of the department's funding. The federal Environmental Protection Agency (EPA) provides the majority of this funding. The EPA shifting of priorities can have a significant impact on the department. According to department officials, the EPA has moved away from the position of technical assistance/partner to one of audit and oversight, which established a less flexible environment. The department has also experienced significant delays in receiving federal funding. The FY 2004 wetlands grant was actually received in FY2005, causing significant delays in contracts and project work. In addition, some funding sources such as superfund are experiencing reductions that may directly impact the 14 superfund sites in Montana.

The complexity of federal funding for environmental activities continues to rise. Funding from other federal agencies such as the Bureau of Land Management and the Department of Energy is significantly different than the EPA. Additionally, the ever changing regulations of EPA funding add to this complexity. The certification of matching funds is one such example. If matching funds cannot be accounted for, whether real or in-kind donations, the funding is at risk. Well versed, seasoned grant managers are needed to ensure continued receipt of this funding.

The legislature may wish to keep in mind the following when dealing with federal funding sources. While no options are provided, these are listed primarily as complimentary information to many of the DP's that follow:

- Delays in funding may cause future present law adjustments
- Increased complexity of federal grants may require appropriate technical staff
- FTE or contracted services may be needed to implement grant activities
- Funding shortfalls may delay activities that impact public health

# **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
	Base	PL Base	New	Total	PL Base	New	Total	Total
	Budget	Adjustment	Proposals	Exec. Budget	Adjustment	Proposals	Exec. Budget	Exec. Budget
Budget Item	Fiscal 2004	Fiscal 2006	Fiscal 2006	Fiscal 2006	Fiscal 2007	Fiscal 2007	Fiscal 2007	Fiscal 06-07
FTE	11.00	0.00	0.00	11.00	0.00	0.00	11.00	11.00
Personal Services	495,078	107,368	0	602,446	107,456	0	602,534	1,204,980
Operating Expenses	593,848	2,234,926	362,424	3,191,198	25,180	0	619,028	3,810,226
Equipment	0	0	0	0	0	0	0	0
<b>Total Costs</b>	\$1,088,926	\$2,342,294	\$362,424	\$3,793,644	\$132,636	\$0	\$1,221,562	\$5,015,206
General Fund	253,386	82,759	0	336,145	45,433	0	298,819	634,964
State/Other Special	647,125	2,295,670	362,424	3,305,219	123,157	0	770,282	4,075,501
Federal Special	188,415	(36,135)	0	152,280	(35,954)	0	152,461	304,741
Total Funds	\$1,088,926	\$2,342,294	\$362,424	\$3,793,644	\$132,636	\$0	\$1,221,562	\$5,015,206

## **Program Description**

The Central Management Program consists of the director's office, a financial services office, and an information technology office. It is the organizational component of the DEQ responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out department mission and statutory responsibilities. The director's office includes the director's staff, the deputy director, an administrative officer, public information officer, a centralized legal services unit, and a centralized personnel office. The financial services office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The information technology office provides information technology services support to other divisions.

## **Program Highlights**

# Central Management Program Major Program Highlights

- The executive is requesting a 25 percent overhead rate to be charged to other divisions to fund this division
- The proposed budget includes \$2.0 million for environmental impact statement costs
- Statewide adjustments and other operating adjustments comprise the remainder of the requested increase

## **Major LFD Issues**

• Expenditures for environmental impact statements exceed the fees collected

## **Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

	_	m Funding				
		Management				
	Base	% of Base	Budget	% of Budget	Budget	% of Budget
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007
01100 General Fund	\$ 253,386	23.3%	\$ 336,145	8.9%	\$ 298,819	24.5%
02058 Petroleum Storage Tank Cleanup	-	-	30,802	0.8%	30,839	2.5%
02070 Hazardous Waste-Cercla	17,439	1.6%	14,473	0.4%	14,491	1.2%
02075 Ust Leak Prevention Program	9,301	0.9%	58,574	1.5%	58,644	4.8%
02097 Environmental Rehab & Response	6,359	0.6%	125,000	3.3%	-	-
02157 Solid Waste Management Fee	10,477	1.0%	32,658	0.9%	32,697	2.7%
02201 Air Quality-Operating Fees	55,994	5.1%	56,348	1.5%	56,415	4.6%
02202 Asbestos Control	-	-	20,349	0.5%	20,374	1.7%
02204 Public Drinking Water	5,075	0.5%	6,494	0.2%	6,502	0.5%
02278 Mpdes Permit Program	50,104	4.6%	399,412	10.5%	37,033	3.0%
02418 Subdivision Plat Review	27,954	2.6%	29,257	0.8%	29,291	2.4%
02458 Reclamation & Development	31,096	2.9%	44,162	1.2%	44,216	3.6%
02542 Mt Environ Policy Act Fee	429,870	39.5%	2,477,794	65.3%	429,870	35.2%
02845 Junk Vehicle Disposal	3,456	0.3%	7,422	0.2%	7,432	0.6%
02954 Septage Fees	-	-	2,474	0.1%	2,478	0.2%
03067 Dsl Federal Reclamation Grant	14,763	1.4%	12,865	0.3%	12,881	1.1%
03100 Epa / Drinking Water Srf	2,202	0.2%	-	-	-	-
03228 L.U.S.T./Trust	5,926	0.5%	-	-	-	-
03262 Epa Ppg	-	-	120,736	3.2%	120,879	9.9%
03302 Wetlands Grant	2,770	0.3%	-	-	-	-
03433 Epa Perf Partnership Fy04-05	126,307	11.6%	-	-	-	-
03436 Nps 04 Staffing & Support	28,695	2.6%	14,040	0.4%	14,057	1.2%
03437 Sep Base 2004	7,097	0.7%	1,546	0.0%	1,548	0.1%
03687 Drinking Water Srf Ffy02	655	0.1%	3,093	0.1%	3,096	0.3%
Grand Total	\$1,088,926	100.0%	\$3,793,644	100.0%	\$1,221,562	100.0%

The majority of the functions in this division are funded with non-budgeted proprietary funds, and are not appropriated through HB 2. The proprietary funding is based upon a negotiated indirect rate with the United States Environmental Protection Agency (EPA). The indirect rate is assessed against funding for all personal services, temporary services, and work-study projects within each division, and transferred to the central management program to fund operating costs. A further discussion is included in the proprietary rate section. Appropriated funds consist of 23 percent general fund for support of the Board of Environmental Review and general operating costs, 39 percent Montana Environmental Protection Act (MEPA) fees from permit applications for completion of environmental impact statements, and number of small federal grants.

# **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
		Fis	cal 2006				F	iscal 2007		
FT		eneral Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
1.11		runu	Special	Special	Fullus	FIL	runu	эрестаг	эрестаг	Tulius
Personal Services					132,470					132,563
Vacancy Savings					(25,102)					(25,107)
Inflation/Deflation					(374)					(368)
Fixed Costs					(1,892)					(1,685)
Total Statewide Pres	ent Law Ad	justments			\$105,102					\$105,403
DP 1004 - MT Environmen	tal Policy Ac	t Biennial Re	estricted							
	0.00	0	2,047,924	0	2,047,924	0.00	0	0	0	0
DP 1009 - Non-Proprietary	Central Man	agement Ope	erating Adj							
	0.00	24,273	137,860	8,607	170,740	0.00	24,277	12,872	8,612	45,761
DP 1011 - Board Environme	ental Review	Biennial Re	quest							
	0.00	18,528	0	0	18,528	0.00	(18,528)	0	0	(18,528)
Total Other Present	Law Adjust	ments								
	0.00	\$42,801	\$2,185,784	\$8,607	\$2,237,192	0.00	\$5,749	\$12,872	\$8,612	\$27,233
Grand Total All Pres	sent Law Ad	justments			\$2,342,294					\$132,636

<u>DP 1004 - MT Environmental Policy Act Biennial Restricted - The executive is requesting an adjustment increasing the biennial restricted appropriation for the Montana Environmental Policy Act (MEPA) to \$2,500,000. An outside party requesting an environmental impact statement (EIS) from the department pays the fee. The average cost of an EIS is \$350,000 to \$400,000 with an average of four EIS projects per year. \$500,000 of this appropriation is contingent upon the passage of legislation to revise MEPA fees.</u>



Section 75-1-203, MCA provides the department authority to assess fees for collection of data and information needs to complete an EIS in relation to a lease, permit, contract license, or certificate. The department must estimate the fee based on a formula, collecting a percent of the cost of the project. When the EIS is completed, statute (76-1-205, MCA) provides direction to refund any unexpended funds without

interest. While statute is silent on the timing of collection, the presence of a process to refund any unused fees could be construed that fees should be collected up front.

Figure 4 provides the revenues and expenditures from the MEPA fee fund. In FY 2004, the department collected \$270,948 in MEPA fees and incurred \$429,890 in MEPA related costs, resulting in a negative cash flow situation. Excess expenditures were covered with the federal EPA partnership grant. The projections for FY 2005 and FY 2006 create a negative ending fund balance.

There are two issues that prevent this fund from achieving structural balance.

1) Statute allows only for the collection of fees related to collecting data and information. This does not allow the department to recover other costs associated with the EIS, such as employee time, contractor expenses, or analysis of the collected information. In FY 2004, another \$118,240 was expended for the administration of MEPA, which was covered with general fund.

		Figure	4								
	Montana Environmental Policy Act										
	Fund 2542: MEPA Fees										
FY	FY Revenue Expenditures Difference Cumulative										
2007*	\$500,000	\$429,870	\$70,130	(\$1,907,664)							
2006*	500,000	2,477,794	(1,977,794)	(2,047,924)							
2005*	500,000	570,130	(70,130)	(229,052)							
2004	270,948	429,870	(158,922)								
* estimate	d										

2) The timing of the fee is not addressed. Upfront collection of the fee would provide the department with the cash flow needed to complete the EIS

LFD ISSUE Cont. Unless scope and timing of the fee collection is addressed, regardless of the level of appropriation provided, the department will continue to expend more on EIS work than is collected in the fee.

The legislature may wish to consider amending statute to:

- Clarify when the fee should be collected
- Collect full EIS preparation costs

<u>DP 1009 - Non-Proprietary Central Management Operating Adj - The executive requests \$170,740 in FY 2006 and \$45,761 in FY 2007 for operating adjustments for MEPA administration and the Environmental Rehabilitation and Environmental Response (ERRA) program. The adjustment would cover increased costs of contracted services and travel.</u>

<u>DP 1011 - Board Environmental Review Biennial Request - The executive requests \$18,528 in FY 2006 and a negative \$18,528 in FY 2007 to create a biennial appropriation for the Board of Environmental Review. The board has specific duties under various environmental statues, which can include adopting rules, setting fees, and hearing appeals. This adjustment would allow the Board to base their meeting schedules on timing of issues rather than annual budgetary constraints.</u>



The adjustment maintains funding at the 2005 biennium level.

## **New Proposals**

New Proposals										
	Fiscal 2006							Fiscal 2007		
		General	State	Federal	Total		General	State	Federal	Total
Program	FTE	Fund	Special	Special	Funds	FTE	Fund	Special	Special	Funds
DP 1008 - Concer	ntrated Animal Fe	ed Op Env Imp	act Stament-OT	O						
10		0	362,424	0	362,424	0.00	0	0	0	0
Total	0.00	\$0	\$362,424	\$0	\$362,424	0.00	\$0	\$0	\$0	\$0

<u>DP 1008 - Concentrated Animal Feed Op Env Impact Stament-OTO - The executive requests a \$362,424 biennial appropriation of state special revenue for the 2007 biennium in response to a Montana district court order to stop issuing water quality permits to concentrated animal feeding operations (CAFO). The department is required to prepare an environmental impact statement (EIS) before any additional water quality permits can be issued.</u>



The executive is requesting a one-time-only biennial appropriation. If approved, the legislature may wish to make this designation, as the project should not continue past the 2007 biennium.

## **Proprietary Rates**

The Central Management Program of the Department of Environmental Quality (DEQ) consists of the director's office, a financial services office, and an information technology office. It is the organizational component of the agency responsible and accountable for the administration, management, planning, and evaluation of agency performance in carrying out the department mission and statutory responsibilities. The director's office includes the director's staff, the deputy director, an administrative officer, public information officer, a centralized legal services unit, and a centralized personnel office. The financial services office provides budgeting, accounting, payroll, procurement, and contract management support to other divisions. The information technology office provides information technology services support to other divisions.

The centralized legal services unit has 3.00 FTE that are funded by the internal service fund, two attorneys and one paralegal. This staff provides the administration, management, and planning for the legal services unit, and specific

duties for department programs, including legislation, rule making, enforcement actions, and contract review. The remainder of this unit is funded by direct charges to the programs and projects requiring the legal work.

The customers of this program are all divisions and employees of the department. Use of these services is mandated by agency policies and procedures. There are no alternative sources for the Central Management Program as a whole. The department contracts for legal services whenever it is cost effective to do so, or to obtain specific expertise for a case, or when legal jurisdiction of the case requires an attorney licensed in that state. The department contracts for information technology database development and for hosting of the department's enterprise database.

## **Proprietary Revenues and Expenses**

The department has one proprietary fund, which is an internal service fund used to account for the department's indirect cost activity. The department anticipates negotiating an indirect cost rate with the U.S. Environmental Protection Agency (EPA) of approximately 25 percent in FY 2006 and FY 2007. Revenues generated by the current indirect cost rate fund 51.50 FTE.

The Central Management Program provides the services presented in the program description. The cost of providing support services is directly related to the number of staff served. The department negotiates an indirect rate with EPA based on that computation annually. Adjustments for over-recovery and under-recovery in the previous year are made to the calculations each year. EPA and DEQ agree to the services that are included in the indirect calculation. Funding is collected from all non-proprietary sources expended within the department. FY 2004 collections were: \$ 404,382 in general fund, \$1,635,608 in state special revenue and \$1,608,227 in federal revenue.

Expense Description: The major cost drivers within this program are personal services costs and fixed costs. Additional costs for overtime are incurred when workload changes, such as upgrades to the state accounting system (SABHRS), a special legislative session, and increased monitoring and oversight of budgets due to revenue shortfalls. Fixed costs continue to be a significant cost increase to the proprietary fund. The cost of providing support services is directly related to the number of staff served. Therefore, future expenses are determined by projecting increases or decreases in program staff. Non-typical and one-time expenses are backed out of the cost of providing services before calculating the indirect rate. Salaries are constant throughout the fiscal year, except during fiscal year end, executive budget preparation, and legislative session. Supplies are purchased on an as needed basis, except during peak times noted above. The indirect rate proposed to the legislature will fund 55.50 FTE.

# **Working Capital**

The objective of program management is to recover costs to fund necessary, ongoing operation of the Central Management Program. The program has no requirement to reserve an excess fund balance. The fund normally carries a 60-day working capital balance to meet its immediate cash needs for covering payroll and various operating costs

## **Fund Equity**

The department does not reserve a fund balance on the accounting records nor does it try to maintain a fund balance. The revenues generated should be enough to cover the current year's operations. However, due to timing factors, the fund balance does not always equal zero.

# **Rate Explanation**

The department negotiates an annual indirect cost rate with EPA. The approved rate is a fixed rate. This rate is applied against personal services, temporary services, and work-study contracts charged within each division of the department, other than the Central Management Program.

The department is requesting an increase in its indirect cost rate from 23 percent approved in the last legislative session to 25 percent. The rate negotiated with EPA requires a carry-forward amount be built into the rate. This carry-forward amount represents the amount the department either under-recovered or over-recovered in a given year. This computation compares what was initially negotiated versus what actually occurred. The difference is then carried forward into the following year's rate.

The department's indirect cost rate is determined based on guidelines prescribed by the federal government. In addition, the department complies with Section 17-3-111, MCA, which requires agencies to negotiate a rate that would recover indirect costs to the fullest extent possible. In order to comply with this law, the department has requested a rate that may vary slightly from the rate the department actually negotiates with EPA. The rate approved by the legislature is considered a cap. Therefore, the department cannot negotiate for a rate higher than what has been approved by the legislature. However, the rate negotiated with EPA may be slightly lower.

LFD COMMENT The department charged 22.6 percent against \$9.1 million in FY 2004 resulting in \$2.0 million in revenues to the Central Management Division. The increase to 25 percent raises \$275,599 if personal services, temporary services, and work-study contracts remain at the FY 2004 level.

	Fund 6509	Fund Name DEQ Indirects	Agency # 5301		cy Name DEQ	Centra	Program Nam		
L				Actual	Actual	Actual	Budgeted	Budgeted	Budgeted
				FY02	FY03	FY04	FY05	FY06	FY07
	Revenues:								
ee revenu		Camilana					0.050.404	0.400.000	4 000 50
Revenue	e from State Net Fee			1,913,545	2,046,413	2,057,043	2,056,494 2,056,494	2,188,888 2,188,888	1,986,59 1,986,59
Investmer	nt Earnings	rtevenue		-	2,040,413	2,037,043	2,030,494	2,100,000	1,300,33
	Lending Inco	me		-	-	-	-	-	-
Premiums	· ·			-	-	-	-	-	-
Other Ope	rating Reven	ues		433	40	56,227	-	-	-
	Total Op	erating Revenue		1,913,978	2,046,453	2,113,270	2,056,494	2,188,888	1,986,59
	Expenses:								
Personal S				2,030,393	2,213,440	2,467,609	2,548,275	2,804,535	2,800,75
	rating Expen			1,006,129	722,139	1,120,569	1,437,794	1,294,303	918,93
lotal	Operating Ex	rpenses		3,036,522	2,935,579	3,588,178	3,986,069	4,098,838	3,719,69
Operating	Income (Los	s)		(1,122,544)	(889,126)	(1,474,908)	(1,929,575)	(1,909,950)	(1,733,09
lonopera	ting Revenu	es (Expenses):							
	s) Sale of Fixe			-	-	(1,181)	-	-	-
	direct Cost R			1,291,779	1,394,815	1,571,619	1,570,464	1,671,585	1,517,10
		venues (Expenses)		-	-				
Net N	onoperating	Revenues (Expenses)		1,291,779	1,394,815	1,570,438	1,570,464	1,671,585	1,517,10
ncome (Lo	oss) Before C	Operating Transfers		169,235	505,689	95,530	(359,111)	(238,365)	(215,99
Contribu	ited Capital			-	-	-	-	-	-
Operatir	ng Transfers	In (Note 13)		-	-	-	-	-	-
•	•	Out (Note 13)			-	-	-	-	-
Chai	nge in net as	sets		169,235	505,689	95,530	(359,111)	(238,365)	(215,99
otal Net A	Assets- July 1	- As Restated		131,775	588,753	1,109,504	1,206,967	847,856	609,49
	d Adjustmen			17,035	15,062	1,933	-	-	-
Cumulative	e effect of ac	count change		270,708	-	-	-	-	-
Total Net A	Assets - July	1 - As Restated		419,518	603,815	1,111,437	1,206,967	847,856	609,49
Net Assets	s- June 30		:	588,753	1,109,504	1,206,967	847,856	609,491	393,49
0 days of	expenses								
(Total C	Operating Exp	penses divided by 6)		506,087	489,263	598,030	664,345	683,140	619,94
			Peguestor	1 Pates for In	ternal Service F	iunde			
					or Legislative A				
			1 00,11010 1	Actual	Actual	Actual	Budgeted	Budgeted	Budgeted
				FYE 02	FYE 03	FYE 04	FY 05	FY 06	FY 07

# **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
	Base	PL Base	New	Total	PL Base	New	Total	Total
TD 1 . T	Budget	Adjustment	Proposals	Exec. Budget	Adjustment	Proposals	Exec. Budget	Exec. Budget
Budget Item	Fiscal 2004	Fiscal 2006	Fiscal 2006	Fiscal 2006	Fiscal 2007	Fiscal 2007	Fiscal 2007	Fiscal 06-07
FTE	84.58	8.00	0.00	92.58	8.00	0.00	92.58	92.58
Personal Services	3,580,754	909,799	0	4,490,553	908,267	0	4,489,021	8,979,574
Operating Expenses	5,718,638	3,257,659	370,000	9,346,297	3,263,433	370,000	9,352,071	18,698,368
Equipment	89,491	2,563	0	92,054	2,563	0	92,054	184,108
Total Costs	\$9,388,883	\$4,170,021	\$370,000	\$13,928,904	\$4,174,263	\$370,000	\$13,933,146	\$27,862,050
General Fund	1,614,878	949,628	0	2,564,506	951,550	0	2,566,428	5,130,934
State/Other Special	643,425	312,721	0	956,146	317,457	0	960,882	1,917,028
Federal Special	7,130,580	2,907,672	370,000	10,408,252	2,905,256	370,000	10,405,836	20,814,088
Total Funds	\$9,388,883	\$4,170,021	\$370,000	\$13,928,904	\$4,174,263	\$370,000	\$13,933,146	\$27,862,050

## **Program Description**

The Planning, Prevention and Assistance Division consists of three bureaus: Technical and Financial Assistance, Water Quality Planning, and Air, Energy and Pollution Prevention. The division:

- 1) Finances for construction and improvement of community drinking water and wastewater systems, and provides engineering review and technical assistance to Montana communities water infrastructure planners
- 2) Assists small businesses in reducing emissions and complying with environmental regulations
- 3) Monitors air and water quality conditions, assesses potential pollution problems, and aids industry achieve cost effective compliance
- 4) Assists communities to plan for energy, watershed, airshed, and solid and hazardous waste management;
- 5) Helps develop water Total Maximum Daily Loads (TMDL)
- 6) Proposes rules and policy, and develops environmental protection criteria
- 7) Provides analysis to assess the cost effectiveness of environmental programs
- 8) Finances energy saving retrofits of public buildings and renewable energy systems for homeowners and small businesses
- 9) Provides technical assistance and education to builders, homeowners, and businesses on energy efficiency and renewable energy, indoor air quality, radon, recycling, and solid waste reduction

## **Program Highlights**

# Planning Prevention and Assistance Division Major Budget Highlights

- The executive is seeking \$1.2 million general fund and \$2.0 million in federal funds plus 9.00 FTE to expedite the completion of Total Maximum Daily Loads (TMDL) to adhere to a federal court ordered schedule
- Delays in federal funding and division wide vacancies in the base year result in the executive seeking \$1.3 million in base budget adjustments for the division
- Statewide adjustments add \$1.3 million

## **Major LFD Issues**

Employee recruitment and retention issues may make it difficult to hire and maintain the additional FTE

**Funding** 

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

		gram Funding				
•	Base	% of Base	Budget	% of Budget	Budget	% of Budget
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007
01100 General Fund	\$ 1,614,878	17.2%	\$ 2,564,506	18.4%	\$ 2,566,428	18.4%
02070 Hazardous Waste-Cercla	141,771	1.5%	133,290	1.0%	132,954	1.0%
02157 Solid Waste Management Fee	54,696	0.6%	83,570	0.6%	84,189	0.6%
02201 Air Quality-Operating Fees	182,254	1.9%	243,208	1.7%	245,895	1.8%
02203 Arco	· -	-	25,339	0.2%	25,339	0.2%
02206 Agriculture Monitoring	3,962	0.0%	5,035	0.0%	5,069	0.0%
02223 Wastewater Srf Special Admin	4,564	0.0%	22,043	0.2%	22,209	0.2%
02278 Mpdes Permit Program	75,259	0.8%	86,685	0.6%	87,274	0.6%
02316 Go94B/Ban 93D Admin	52,798	0.6%	62,121	0.4%	62,520	0.4%
02388 Misc. State Special Revenue	39,996	0.4%	26,025	0.2%	26,143	0.2%
02491 Drinking Water Spec Admin Cost	31,003	0.3%	79,094	0.6%	79,459	0.6%
02555 Alternative Energy Rev Loan	6,943	0.1%	36,726	0.3%	36,692	0.3%
02973 Univ System Benefits Program	50,179	0.5%	153,010	1.1%	153,139	1.1%
03007 Doe Special Projects	58,171	0.6%	101,413	0.7%	101,709	0.7%
03010 Nps 04 Projects	1,669,998	17.8%	1,669,998	12.0%	1,669,998	12.0%
03033 Energy/Fsd	134,487	1.4%	171,019	1.2%	171,155	1.2%
03100 Epa / Drinking Water Srf	127,024	1.4%	158,672	1.1%	159,090	1.1%
03232 Drinking Water Srf Ffy 00	11,195	0.1%	-	-	-	-
03245 Wastewater Treatment Grant	71,684	0.8%	_	_	_	_
03249 Nps Implementation Grant	288,600	3.1%	449,952	3.2%	449,964	3.2%
03262 Epa Ppg	,	-	3,382,925	24.3%	3,378,690	24.2%
03302 Wetlands Grant	111.181	1.2%	647,708	4.7%	647,514	4.6%
03433 Epa Perf Partnership Fy04-05	1,796,032	19.1%	134	0.0%	63	0.0%
03435 Pm 2.5 Fiscal Year 2004	311,236	3.3%	326,704	2.3%	328,031	2.4%
03436 Nps 04 Staffing & Support	986,046	10.5%	1,135,424	8.2%	1,132,986	8.1%
03437 Sep Base 2004	351,850	3.7%	594,225	4.3%	594,163	4.3%
03442 Dw Srf 03	339,979	3.6%	634,841	4.6%	633,453	4.5%
03457 Wpc Srf Fy03 Grant	192,048	2.0%	309,858	2.2%	311,853	2.2%
03459 Doe Competitive Special Proj	23,323	0.2%	139,928	1.0%	140,356	1.0%
03667 Tmdl Supplemental		-	159,547	1.1%	159,772	1.1%
03676 Bureau Of Land Management	_	_	40,000	0.3%	40,000	0.3%
03687 Drinking Water Srf Ffy02	100,952	1.1%	-	-	.5,500	-
03695 Srf St Tribal Rel Agrmt Grant	24.937	0.3%	46.035	0.3%	46,161	0.3%
03716 Doe - Omnibu	54,492	0.6%	64,000	0.5%	64,000	0.5%
03814 Epa Water Quality 205J	218,965	2.3%	207,094	1.5%	207,798	1.5%
03817 Emap	128,567	1.4%	128,775	0.9%	129,080	0.9%
03818 Tmdl Special Projects	27,783	0.3%	40,000	0.3%	40,000	0.3%
03953 Drinking Water Srf 99	102,030	1.1%	-	-		-
Grand Total	\$ 9,388,883	100.0%	\$ 13,928,904	100.0%	\$ 13,933,146	100.0%
Claire 10mi	Ψ >,500,005	100.070	Ψ 13,720,704	100.070	ψ 15,755,1 <del>4</del> 0	100.070

The division is funded with general fund and a variety of state special and federal special revenue sources. The division's primary state special revenue funds are the fees collected for air quality permits and a portion of the RIT interest deposited in the hazardous waste/CERCLA account. The largest portion of federal funds are provided through the Environmental Protection Agency (EPA) programs, including the performance partnership grant and non-point source pollution control funding.

## **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustment		Ei	scal 2006				Е	issal 2007		
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					763,375					762,798
Vacancy Savings					(173,767)					(173,739)
Inflation/Deflation					(15,459)					(15,133)
Fixed Costs					51,456					53,395
Total Statewide P	resent Law	Adjustments			\$625,605					\$627,321
DP 2001 - Water Qualit	y Planning E	Bureau Operatio	ns Adj							
_	0.00	22,346	30,331	421,171	473,848	0.00	16,208	30,324	418,233	464,765
DP 2002 - Fiscal & Adm	ninistrative U	Init Operations .	Adj							
	0.00	(13,815)	4,608	7,407	(1,800)	0.00	(2,662)	6,834	6,984	11,156
DP 2003 - Technical & I	Financial As	sistance Bureau	Operat Adj							
	0.00	1,811	23,377	316,901	342,089	0.00	1,804	23,674	317,715	343,193
DP 2004 - Air Energy &			ıu Oper Adj							
	0.00	34,754	161,892	321,911	518,557	0.00	33,584	163,049	320,692	517,325
DP 2007 - Water Quality										
	9.00	630,705	0	1,432,879	2,063,584	9.00	629,486	0	1,432,879	2,062,365
DP 2019 - Database Mai										
	0.00	25,000	0	0	25,000	0.00	25,000	0	0	25,000
DP 2021 - Statewide FT										
	(1.00)	(41,862)	0	0	(41,862)	(1.00)	(41,862)	0	0	(41,862)
DP 2022 - Water Quality		,								
	0.00	165,000	0	0	165,000	0.00	165,000	0	0	165,000
Total Other Prese	ent Law Adj	justments								
	8.00	\$823,939	\$220,208	\$2,500,269	\$3,544,416	8.00	\$826,558	\$223,881	\$2,496,503	\$3,546,942
Grand Total All Pr	esent Law A	djustments			\$4,170,021					\$4,174,263

# LFD COMMENT

## Statewide Personal Services

Statewide adjustments are made to account for all changes to personal services occurring in the previous biennium. Among the factors that determine changes in statewide adjustments are annualization of any pay plan provided by the 2003 legislature, fully funding positions due to

vacancies in the base year, other changes in salary due to promotions or changes in grade, and changes in the cost of benefits. The statewide adjustments in this program add almost 16.5 percent to the base year expenditures. In addition, the division will experience an increase in indirect assessments of \$147,402 to the base year to account for the restoration of personal services. The request for the indirect adjustment will be accounted for in individual decision packages. For a discussion of vacancies in this agency, please see the agency narrative.

<u>DP 2001 - Water Quality Planning Bureau Operations Adj - The executive recommends</u> \$473,848 in FY 2006 and \$464,765 in FY 2007 for operating adjustments. The request consists of \$326,000 in each year for contracted services to account for the anticipated increased costs associated with the expedited Total Maximum Daily Load (TMDL) schedule and to annualize contracts released late due to delays in federal funding in FY 2004. The adjustment includes \$6,514 each year for travel and supplies for two positions that were vacant during the base year. The remaining \$80,000 covers the indirect charges associated with increased staffing.



Please see agency wide issue on the implementation of the expedited Total Maximum Daily Load schedule.

<u>DP 2002 - Fiscal & Administrative Unit Operations Adj - The executive is requesting an adjustment of \$9,356 for the biennium due to vacancies in the base year. The adjustment is the net affect of a reduction in contracted services of \$16,272 and increases in supplies and travel of \$10,522, and indirect charges of \$15,106 associated with increased staffing. In addition, general fund is being replaced with state special revenue and federal revenue.</u>

<u>DP 2003 - Technical & Financial Assistance Bureau Operat Adj - The executive requests the following operating adjustments each year of the biennium:</u>

- \$249,473 in contracted services (\$251,597 in FY 2007)
- \$42,251 in travel, supplies, and communications
- \$2,500 for rent in non-state owned buildings
- \$47,365 of indirect charges associated with increased staffing (\$46,241 in FY 2007)

The adjustment would provide for increased assistance and capacity development in the public water supply program, increased workload on the State and Tribal Agreement Grant (STAG), and annualization of the federal wetlands grant due to late receipt from the federal government.

<u>DP 2004 - Air Energy & Pollution Prevention Bureau Oper Adj - The executive requests operating adjustments in the Air Energy and Pollution Prevention Bureau as follows:</u>

- \$266,017 of federal Department of Energy funding to account for reduced expenditures in the base year due to a delay caused by late appropriations from Congress
- \$66,315 to increase appropriations for travel, communications, and materials for the six vacant positions during the base year
- \$85,343 in FY 2006 and \$82,636 in FY 2007 for indirect costs associated with increased staffing.



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative.

<u>DP 2007 - Water Quality Monitoring TMDL Completion - The executive budget includes a request to provide 9.00 FTE and contracted services to increase the current pace and efficiency of Total Maximum Daily Load (TMDL) development in order to comply with a federal district court order. The program must complete all 1996 water body reassessments and full TMDL development for eight western watersheds by 2007, and complete all remaining necessary TMDL's by 2012.</u>



Please see the agency wide issue on the implementation of the expedited Total Maximum Daily Load schedule.

<u>DP 2019 - Database Maintenance Costs - OTO -</u> This one-time-only budget request includes \$25,000 general fund each fiscal year for the design and development of software and associated operating costs. This system would be used both by agency staff for Sufficient Credible Data/Beneficial Use Determination (SCD/BUD), tasks and a secured version would be made available for public viewing to satisfy Federal Clean Water Act reporting requirements

<u>DP 2021 - Statewide FTE Reduction - This decision package implements an FTE reduction equivalent to the reductions taken in the 2003 legislative session.</u> This 1.00 FTE and nearly \$42,000 general fund per year would be removed from the budget permanently.

<u>DP 2022 - Water Quality Monitoring TMDL Completion-OTO -</u> This one-time-only request would support two one-time database development and enhancement projects, to enhance data use entry and retrieval, and to assist in carrying all future Total Maximum Daily Load (TMDL) projects to completion.

## **New Proposals**

New Proposals										
		Fi	scal 2006				]	Fiscal 2007		
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2012 - BLM F	funding for Wat	er Quality Monito	oring							
20	0.00	0	0	40,000	40,000	0.00	0	0	40,000	40,000
DP 2016 - Wetlan	ds Grants Author	ority								
20	0.00	0	0	330,000	330,000	0.00	0	0	330,000	330,000
Total	0.00	\$0	\$0	\$370,000	\$370,000	0.00	\$0	\$0	\$370,000	\$370,000

<u>DP 2012 - BLM Funding for Water Quality Monitoring - The executive recommends \$40,000 federal special revenue from the Bureau of Land Management (BLM) each year to provide water quality monitoring on public lands managed by BLM.</u>

<u>DP 2016 - Wetlands Grants Authority - The department requests \$330,000 federal special revenue each fiscal year to restore base level funding caused by the by the federal wetland grants being received late in the fiscal year.</u>

## Language

"The department is authorized to decrease federal special revenue money in the water pollution control and/or drinking water revolving loan programs and increase state special revenue money by a like amount within the special administration account when the amount of federal capitalization funds have been expended or federal funds and bond proceeds will be used for other program purposes."

## **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	14.00	0.00	0.00	14.00	0.00	0.00	14.00	14.00
Personal Services	659,987	33,612	0	693,599	33,842	0	693,829	1,387,428
Operating Expenses	270,729	44,484	0	315,213	47,640	0	318,369	633,582
Total Costs	\$930,716	\$78,096	\$0	\$1,008,812	\$81,482	\$0	\$1,012,198	\$2,021,010
General Fund	370,865	29,307	0	400,172	30,627	0	401,492	801,664
State/Other Special	148,722	102,620	0	251,342	103,509	0	252,231	503,573
Federal Special	411,129	(53,831)	0	357,298	(52,654)	0	358,475	715,773
Total Funds	\$930,716	\$78,096	\$0	\$1,008,812	\$81,482	\$0	\$1,012,198	\$2,021,010

## **Program Description**

The Enforcement Division is the central control for activities designed to facilitate the enforcement of the statutes and regulations administered by the department. The division develops department enforcement policies and procedures for approval by the director and ensures they are implemented in a consistent manner across the department. The division maintains a citizen complaint clearinghouse and information tracking system. The division coordinates the legal and technical aspects of enforcement cases, both administrative and judicial, and monitors violators to determine compliance with department orders.

# **Program Highlights**

# **Enforcement Division Major Program Highlights**

• Increases are split between statewide adjustments and a like amount due to increased activity

## **Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

	Progra	m Funding	Table										
	Enfo	rcement Divis	sion										
	Base % of Base Budget % of Budget % of Budget												
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007							
01100 General Fund	\$ 370,865	39.8%	\$ 400,172	39.7%	\$ 401,492	39.7%							
02075 Ust Leak Prevention Program	48,559	5.2%	73,980	7.3%	74,224	7.3%							
02201 Air Quality-Operating Fees	48,459	5.2%	73,866	7.3%	74,109	7.3%							
02204 Public Drinking Water	14,834	1.6%	42,125	4.2%	42,325	4.2%							
02278 Mpdes Permit Program	32,411	3.5%	34,974	3.5%	35,089	3.5%							
02458 Reclamation & Development	4,459	0.5%	4,816	0.5%	4,832	0.5%							
02845 Junk Vehicle Disposal	-	-	21,581	2.1%	21,652	2.1%							
03067 Dsl Federal Reclamation Grant	16,708	1.8%	18,027	1.8%	18,087	1.8%							
03228 L.U.S.T./Trust	35,661	3.8%	38,479	3.8%	38,606	3.8%							
03262 Epa Ppg	-	-	245,327	24.3%	246,135	24.3%							
03433 Epa Perf Partnership Fy04-05	307,355	33.0%	-	-	-	-							
03436 Nps 04 Staffing & Support	51,405	5.5%	55,465	5.5%	55,647	5.5%							
Grand Total	\$ 930,716	100.0%	\$1,008,812	100.0%	\$1,012,198	100.0%							

The Enforcement division is primarily funded with general fund, federal EPA partnership grant monies, and state special revenue sources such as air quality fees, junk vehicle fees, and public drinking water funds that are utilized for enforcement activities. The division receives RIT funding through the Reclamation and Development Account.

# **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

		Fis	cal 2006			Fiscal 2007				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services Vacancy Savings Inflation/Deflation Fixed Costs					62,513 (28,901) (2,306) 5,205					62,75 (28,909 (2,260 5,49
Total Statewide	e Present Law	Adjustments			\$36,511					\$37,081
DP 3001 - Enforceme	nt Operations A	djustment								
	0.00	14,761	8,914	13,180	36,855	0.00	15,853	9,574	14,154	39,58
DP 3002 - Enforceme	nt Vehicle Leas	e								
	0.00	0	4,730	0	4,730	0.00	0	4,820	0	4,820
Total Other Pr	esent Law Adji	ustments								
	0.00	\$14,761	\$13,644	\$13,180	\$41,585	0.00	\$15,853	\$14,394	\$14,154	\$44,401
Grand Total All	Present Law Ac	diustments			\$78,096					\$81,482

<u>DP 3001 - Enforcement Operations Adjustment - The executive requests operating costs adjustments for anticipated increases in lab analysis, in-state travel, IT consulting, indirect, and printing costs.</u>



The division responded to 908 complaints in FY 2004 and handled 334 enforcement cases. The division anticipates handling 1000 complaints and 350 enforcement cases in FY 2006.

<u>DP 3002 - Enforcement Vehicle Lease - The executive requests authority for a leased vehicle to replace a department owned vehicle that is no longer reliable and has high mileage. After adjustments for gas and maintenance, the net cost of the replacement would be \$4,730 in FY 2006 and \$4,820 in FY 2007.</u>

# **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget
Budget Item	Fiscal 2004	Fiscal 2006	F18Ca1 2000	F18Ca1 2006	F18Ca1 2007	F18Ca1 2007	Fiscal 2007	Fiscal 06-07
FTE	63.75	(2.00)	0.00	61.75	(2.00)	0.00	61.75	61.75
Personal Services	2,606,998	407,696	0	3,014,694	407,499	0	3,014,497	6,029,191
Operating Expenses	5,090,874	3,750,083	4,409,326	13,250,283	2,999,202	2,950,000	11,040,076	24,290,359
Benefits & Claims	0	4,100,000	0	4,100,000	0	0	0	4,100,000
Transfers	0	0	0	0	0	0	0	0
Total Costs	\$7,697,872	\$8,257,779	\$4,409,326	\$20,364,977	\$3,406,701	\$2,950,000	\$14,054,573	\$34,419,550
State/Other Special	2,096,708	4,775,081	2,200,000	9,071,789	374,877	2,000,000	4,471,585	13,543,374
Federal Special	5,601,164	3,482,698	2,209,326	11,293,188	3,031,824	950,000	9,582,988	20,876,176
Total Funds	\$7,697,872	\$8,257,779	\$4,409,326	\$20,364,977	\$3,406,701	\$2,950,000	\$14,054,573	\$34,419,550

## **Program Description**

The Remediation Division protects human health and the environment by preventing exposure to hazardous substances that have been released to soil, sediment, surface water, or groundwater. The division also ensures compliance with state and federal regulations. The division's responsibilities include: oversight, investigation, and cleanup activities at state and federal Superfund sites, and voluntary cleanup activities; reclamation of abandoned mine lands; implementation of corrective actions at sites with leaking underground storage tanks; and oversight of groundwater remediation at sites where improper placement of wastes has caused groundwater contamination. This division is divided into two bureaus:

- 1) The <u>Hazardous Waste Site Cleanup Bureau</u> (HWSCB) oversees or conducts the investigation and cleanup of sites contaminated by chemical spills, hazardous substances and petroleum released by industrial and commercial operations other than mining. The bureau works with the Petroleum Tank Release Compensation Board for eligibility and reimbursement determinations, and provides grants to local governments for compliance assistance.
- 2) The Mine Waste Cleanup Bureau (MWCB) is responsible for administering and overseeing remedial actions at historical mine sites, abandoned mines, ore-transport, and processing facilities. It also oversees the provisions of the federal Comprehensive Environmental Response and Liability Act (CERCLA or federal superfund program).

## **Program Highlights**

# Remediation Division Major Program Highlights

- The executive request \$4.1 million of orphan share funding over the biennium to cover the cost of cleanup, when responsible parties are bankrupt or otherwise insolvent
- \$2.0 million per year in bond proceeds would be used to cover the state's share of superfund clean up activities in Libby
- \$2.9 million in authority is requested to spend federal abandoned mine grant monies
- \$1.9 million of federal authority is added for the brownsfield program that is designed to reclaim contaminated areas and prepare them for redevelopment
- Statewide adjustments contribute significantly to the requested increase

**Funding** 

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

		gram Fundin Remediation Di	-			
	Base	% of Base	Budget	% of Budget	Budget	% of Budget
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007
02058 Petroleum Storage Tank Cleanup	\$ 1,117,596	14.5%	\$ 1,291,554	6.3%	\$ 1,286,970	9.2%
02070 Hazardous Waste-Cercla	66,730	0.9%	23,955	0.1%	23,961	0.2%
02075 Ust Leak Prevention Program	(3)	0.0%	-	-	-	-
02162 Environmental Quality Protecti	733,509	9.5%	1,224,157	6.0%	974,987	6.9%
02206 Agriculture Monitoring	6,479	0.1%	54,052	0.3%	7,603	0.1%
02472 Orphan Share Fund	19,734	0.3%	4,125,000	20.3%	25,019	0.2%
02565 Lust Cost Recovery	-	-	200,000	1.0%	-	-
02775 Cercla Go Bonds	-	-	2,000,000	9.8%	2,000,000	14.2%
02940 Pegasus - Basin	152,663	2.0%	153,071	0.8%	153,045	1.1%
03036 Deq - Federal Aml Grant	2,092,485	27.2%	-	-	-	-
03222 Lockwood Superfund Site	101,945	1.3%	655,237	3.2%	255,219	1.8%
03228 L.U.S.T./Trust	468,628	6.1%	591,273	2.9%	541,681	3.9%
03256 Superfund Core	278,540	3.6%	-	-	-	-
03257 Superfund Multi-Site	977,109	12.7%	2,370,319	11.6%	1,110,979	7.9%
03262 Epa Ppg	-	-	147,582	0.7%	147,547	1.0%
03433 Epa Perf Partnership Fy04-05	101,566	1.3%	-	-	-	-
03438 Brownsfield State Response	-	-	1,001,720	4.9%	1,001,309	7.1%
03439 Basin Creek Mine	-	-	175,000	0.9%	175,000	1.2%
03447 Deq-Federal Aml03 Grant	1,580,891	20.5%	6,061,470	29.8%	6,060,635	43.1%
03463 Mine Lease/Reclamation	-	-	75,000	0.4%	75,000	0.5%
03468 Core Cooperative Grant-Fy05			215,587	1.1%	215,618	<u>1.5%</u>
Grand Total	\$ 7,697,872	100.0%	\$ 20,364,977	100.0%	\$ 14,054,573	100.0%

The Remediation division is funded with a mix of state special revenue and federal revenues. The division does not receive any general fund. State special revenue comes from the \$.0075 gas tax for petroleum tank cleanup, registration fees for underground storage tanks, and interest proceeds from the resource indemnity trust (RIT) deposited to the environmental protection, orphan share, and hazardous waste accounts. Federal revenue is derived from the United States Environmental Protection Agency (EPA) for Superfund oversight and various other activities, and the United States Office of Interior funds the Abandoned Mine Lands (AML) program.

## **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustme		Fi	scal 2006				Б	iscal 2007		
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					644,836					644,962
Vacancy Savings					(130,071)					(130,075)
Inflation/Deflation					(5,460)					(5,263)
Fixed Costs					57,443					58,786
Total Statewide	Present Lav	v Adjustments			\$566,748					\$568,410
DP 4001 - Haz Waste	Cleanup Oper	rations Adjustme	ent							
	0.00	0	131,269	(30,307)	100,962	0.00	0	84,997	(30,490)	54,507
DP 4002 - Mine Waste	Cleanup Op	erations Adjustn	nent							
	0.00	0	4,000	(33,874)	(29,874)	0.00	0	4,000	(33,874)	(29,874)
DP 4003 - Fiscal & Ad										
	0.00	0	(49,400)	70,857	21,457	0.00	0	(49,400)	70,446	21,046
DP 4004 - Technical S										
DD 1005 W W	(2.00)	0	0	(107,069)	(107,069)	(2.00)	0	0	(107,388)	(107,388)
DP 4006 - Haz Waste			•		250.000	0.00		•		
DD 4000 M. W.	0.00	0	250,000	0	250,000	0.00	0	0	0	0
DP 4008 - Mine Waste	e & Abandone 0.00	ed Mine Land A	utnority 0	2,900,000	2,900,000	0.00	0	0	2,900,000	2,900,000
DP 4009 - Lockwood I		-	U	2,900,000	2,900,000	0.00	U	U	2,900,000	2,900,000
Dr 4009 - Luckwood i	0.00	Onty-base	0	400,000	400,000	0.00	0	0	0	0
DP 4010 - Orphan Sha		-	•	400,000	400,000	0.00	Ü	O	O .	O.
DI 1010 Olphan Dia	0.00	0	4,100,000	0	4,100,000	0.00	0	0	0	0
DP 4011 - Ustfields O			.,,		1,200,000					~
	0.00	0	5,555	50,000	55,555	0.00	0	0	0	0
Total Other Pre	sent Law Ad	liustments								
2000 00001110	(2.00)	\$0	\$4,441,424	\$3,249,607	\$7,691,031	(2.00)	\$0	\$39,597	\$2,798,694	\$2,838,291
Grand Total All	Present Law A	Adjustments			\$8,257,779					\$3,406,701

Statewide Personal Services

Statewide adjustments are made to account for all changes to personal services occurring in the previous biennium. Among the factors that determine changes in statewide adjustments are annualization of any pay plan provided by the 2003 Legislature, fully funding positions due to vacancies in the base year, other changes in salary due to promotions or changes in grade, and changes in the costs of benefits. The statewide adjustments in this program add almost 20 percent to the base year expenditures. In addition, the division will experience an increase in indirect assessments of \$128,578 to the base year to account for the restoration of personal services. The request for the indirect adjustment will be accounted for in individual decision packages. For a discussion of vacancies in this agency, please see agency narrative.

<u>DP 4001 - Haz Waste Cleanup Operations Adjustment -</u> The executive is requesting the following operational adjustments each year of the biennium:

- \$6,099 for rent for non-state owned buildings
- \$10,806 for travel and operating expenses for 4.00 FTE that were vacant during the base year
- \$2,546 for computer equipment
- \$15,741 to fund increased indirect charges due to increased staffing.

FY 2006 also includes increased authority for agriculture monitoring for contracted services.

LFD

COMMENT



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative

<u>DP 4002 - Mine Waste Cleanup Operations Adjustment - The executive budget includes an overall operating cost reduction of \$48,610 per year due to a rent decrease and moving expenses associate with moving to a state owned building that are partially offset by increases in travel (\$2,893), operating expenses (\$13,297) and computer equipment (\$2546), due to a vacancy in the base year. This would be funded with predominantly federal EPA dollars.</u>



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative.

<u>DP 4003 - Fiscal & Admin Operations Adjustment - The executive recommends operational costs adjustments that are the net of a reduction of \$42,880 in FY 2006 for decreased rent and non recurring moving expenses, and an increase of \$64,337 in contracted and temporary services and training to adjust for vacancies during the base year. FY 2007 represents a similar adjustment.</u>



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative

<u>DP 4004 - Technical Services Operations Adjustment - The budget includes a reduction due to internal agency reorganization where two information technology positions were moved from the Remediation Division to the Central Management Division.</u>



The FTE are now being funded through the non-budgeted proprietary fund.

<u>DP 4006 - Hazard Waste Cleanup EQPF Biennial Authority - The executive budget includes a \$250,000 state special revenue biennial appropriation request for continued contracted services support for cost recovery litigation in Environmental Quality Protection Fund (EQPF). These expenses, as well as remedial costs, would be recovered when litigation is complete.</u>



The department spent \$30,113 in legal fees and court costs from the environmental quality protection fund in FY 2004 from the Remediation Division's general appropriation. This decision package seeks to add additional authority for this purpose. The legislature may wish to restrict the appropriation for the

intended use and designate the appropriations as a one-time only authorization to provide for a review of the expenditures by the 2007 legislature.

<u>DP 4008 - Mine Waste & Abandoned Mine Land Authority - The executive requests \$2.9 million each fiscal year of the 2007 biennium to allow the expenditure of previously awarded abandoned mine federal funds of \$2.8 million that were not expended as planned, because of forest closures due to ongoing drought conditions. The remaining \$100,000 in authority is for superfund multi sites dollars, as remediation, because the EPA and the department have not completed planning and review work as rapidly as initially planned.</u>

<u>DP 4009 - Lockwood Biennial Authority-Base - The executive requests a \$400,000 biennial appropriation of federal authority to continue as technical lead for the Lockwood Solvent Ground Water Plume. The department would continue the monitoring/sampling program, and after the consent decree is complete, provide oversight and technical expertise for the remedial design and action on this Superfund site.</u>

<u>DP 4010 - Orphan Share Biennial Authority Oper . Adj. - The executive budget includes a request for a \$4.1 million state special revenue biennial appropriation from the orphan share account to reimburse eligible remedial action costs from contaminated sites, and to defend the orphan share during the liability allocation process. The orphan share account is funded primarily by the resource indemnity and ground water assessment taxes (RIGWA).</u>



There are currently two petitions for orphan share fund for liability allocation: 1) Darby Lumber Company for the S&W Sawmill; and 2) the City of Bozeman for the CMC Asbestos Bozeman facility. The Bozeman project is scheduled to start and be completed in the 2007 biennium. The Darby project may begin during the 2007 biennium.

The orphan share account receives the remainder of the Resource Indemnity Ground Water Assessment (RIGWA) tax after all other allocations are made. The balance of the orphan share fund will fluctuate based on the amount of RIGWA tax collected and the obligations prior to the deposit into the orphan share account. The legislature may wish to designate this funding as one-time only and not add authority to the base.

After revenues, interest, and appropriations are accounted for, the fund balance for fiscal year end 2007 is estimated to be \$6.4 million. For a further discussion of RIGWA and related issues, see the "Agency Narrative" in the Department of Natural Resources in this Volume.

<u>DP 4011 - Ustfields OTO - The executive requests a one-time only appropriation of \$5,555 in state special revenue</u> (petroleum tank cleanup fund) to match a \$50,000 federal grant in FY 2006 to clean up abandoned sites contaminated with petroleum.

#### **New Proposals**

New Proposals		Fise	cal 2006			Fiscal 2007					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 4005 - Brownsf	fields Grant Aut	hority									
40	0.00	0	0	950,000	950,000	0.00	0	0	950,000	950,000	
DP 4007 - Lust Cos	st Recovery Bie	nnial Authority									
40	0.00	0	200,000	0	200,000	0.00	0	0	0	0	
DP 4012 - Libby A	Asbestos Troy B	iennial Authority									
40	0.00	0	0	1,259,326	1,259,326	0.00	0	0	0	0	
DP 4013 - CERCL	A Bond Sales										
40	0.00	0	2,000,000	0	2,000,000	0.00	0	2,000,000	0	2,000,000	
Total	0.00	\$0	\$2,200,000	\$2,209,326	\$4,409,326	0.00	\$0	\$2,000,000	\$950,000	\$2,950,000	

<u>DP 4005 - Brownsfields Grant Authority - The executive recommends</u> \$950,000 federal special revenue each year of the 2007 biennium for the division's federal brownfield's grant. A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The federal grant program funds cleanup to increase opportunities for development and reuse of contaminated sites.

<u>DP 4007 - Lust Cost Recovery Biennial Authority - The executive requests a \$200,000 state special revenue biennial appropriation to recover federal grant funds expended in the cleanup of contamination from underground storage tanks. Under Leaking Underground Storage Tank (LUST) federal law, any state-recovered monies are to be used for cleanup of</u>

other sites also meeting these site definitions. The recovered funds would supplement the LUST program to continue cleanup efforts where owners/operators of certain tanks are insolvent or recalcitrant.

<u>DP 4012 - Libby Asbestos Troy Biennial Authority - The executive requests \$1,259,326</u> in federal special revenue biennial authority for site investigation at the Libby Troy Asbestos site. The town of Troy is part of the Libby Asbestos Site. The remedial investigation activities are intended to identify properties in the Troy area with Libby asbestos contamination. Federal funding will begin in FY 2005. The investigation is planned for completion in three years.



After the remedial investigation activities are complete, a record of decision will be released. The record of decision (ROD) is a public document that explains which cleanup alternatives will be used to clean up a Superfund site.

<u>DP 4013 - CERCLA Bond Sales - The executive requests \$2 million state special revenue each year of the biennium to spend bond proceeds. This funding would support state obligations at the Libby/Troy, Basin/10-Mile, and East Helena national priority list sites in Montana.</u>

## **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget	D	DI D	NI.	Tr. (-1	Dr. D	NI.	T. (.1	T: 1:1
	Base	PL Base	New	Total Exec. Budget	PL Base	New	Total Exec. Budget	Total
Budget Item	Budget Fiscal 2004	Adjustment Fiscal 2006	Proposals Fiscal 2006	Fiscal 2006	Adjustment Fiscal 2007	Proposals Fiscal 2007	Fiscal 2007	Exec. Budget Fiscal 06-07
Budget Helli	riscai 2004	FISCAI 2000	riscai 2000	riscai 2000	FISCAI 2007	FISCAI 2007	FISCAI 2007	riscai 00-07
FTE	175.70	10.75	2.75	189.20	10.75	2.75	189.20	189.20
Personal Services	8,095,403	1,036,182	110,506	9,242,091	1,014,872	110,208	9,220,483	18,462,574
Operating Expenses	12,236,964	28,382,778	72,859	40,692,601	(5,637,641)	(111,541)	6,487,782	47,180,383
Equipment	12,621	0	0	12,621	Ó	0	12,621	25,242
Grants	1,457,581	316,599	0	1,774,180	431,998	0	1,889,579	3,663,759
Transfers	0	0	0	0	0	0	0	0
Total Costs	\$21,802,569	\$29,735,559	\$183,365	\$51,721,493	(\$4,190,771)	(\$1,333)	\$17,610,465	\$69,331,958
General Fund	814,615	14,059	0	828,674	15,586	0	830,201	1,658,875
State/Other Special	13,858,251	27,564,043	169,101	41,591,395	(2,315,862)	159,563	11,701,952	53,293,347
Federal Special	7,129,703	2,157,457	14,264	9,301,424	(1,890,495)	(160,896)	5,078,312	14,379,736
Total Funds	\$21,802,569	\$29,735,559	\$183,365	\$51,721,493	(\$4,190,771)	(\$1,333)	\$17,610,465	\$69,331,958

## **Program Description**

The Permitting and Compliance Division administers all DEQ permitting and compliance activities based on 25 state regulatory and five related federal authorities. The division:

- 1) reviews and assesses environmental permit applications (coordinating with other state, local, and federal agencies) to determine control measures needed to ensure compliance with the law and to prevent land, water, and air conditions detrimental to public health, welfare, safety, and the environment;
- 2) prepares supporting environmental documents under the Montana Environmental Policy Act and provides training and technical assistance when needed;
- 3) inspects to determine compliance with permit conditions, laws and rules; and
- 4) provides assistance to resolve the facility's compliance issues when problems are discovered, and when necessary, recommends formal enforcement actions to the Enforcement Division.

Activities are organized into six bureaus: Air Management Bureau (air); Industrial and Energy Minerals Bureau (coal, uranium, opencut); Environmental Management Bureau (hard rock, facility siting); Public Water and Subdivision Bureau (public water supply and subdivision); Water Protection Bureau (water discharge); and Waste and Underground Tank Management Bureau (solid waste, junk vehicles, septage pumpers, hazardous waste, asbestos, underground storage tanks).

# **Program Highlights**

# Permitting and Compliance Division Major Program Highlights

- 10.75 FTE are being requested to assist with workload issues
- The executive is requesting base adjustments to operating expenses due to vacant positions
- Hard rock mining and MFSA activities, including bond proceeds, total almost \$20.0 million in state special revenue

## **Major LFD Issues**

- Recruitment and retention issues impact operations
- Some requested base adjustments are already in the base budget

# **Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table Permitting & Compliance										
	Base	% of Base	Budget	% of Budget	Budget	% of Budge				
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007				
01100 General Fund	\$ 814,615	3.7%	\$ 828,674	1.6%	\$ 830,201	4.7%				
02054 Ust-Installer Lic & Permit Acc	77,615	0.4%	78,272	0.2%	78,450	0.4%				
02065 Washington Gulch Bond Forfeit	534	0.0%	-	-	-	-				
02067 C R Kendall Bond Forfeiture	-	-	-	-	-	-				
02070 Hazardous Waste-Cercla	512,821	2.4%	525,709	1.0%	526,649	3.0%				
02075 Ust Leak Prevention Program	302,457	1.4%	286,335	0.6%	278,721	1.6%				
02096 Reclamation - Bond Forfeitures	76,872	0.4%	22,106,084	42.7%	-	_				
02130 Zort/Land Exploration Bond For	60,909	0.3%	142,000	0.3%	-	_				
02138 Zort/Land Open Cut Bond Forfei	255,618	1.2%	-	_	-	-				
02157 Solid Waste Management Fee	523,131	2.4%	587,763	1.1%	577,226	3.3%				
02201 Air Quality-Operating Fees	2,252,524	10.3%	2,898,112	5.6%	2,821,318	16.0%				
02202 Asbestos Control	144,705	0.7%	168,143	0.3%	168,810	1.0%				
02204 Public Drinking Water	684,121	3.1%	736,101	1.4%	725,830	4.1%				
02278 Mpdes Permit Program	822,130	3.8%	1,504,424	2.9%	1,486,825	8.4%				
02418 Subdivision Plat Review	950,471	4.4%	1,254,757	2.4%	1,054,757	6.0%				
02420 Bd Of Cert For W&Ww Op	74,129	0.3%	110,742	0.2%	110,742	0.6%				
02421 Hazardous Waste Fees	5,212	0.0%	55,227	0.1%	55,227	0.3%				
02428 Major Facility Siting	14,957	0.1%	300,000	0.6%	_	_				
02438 Pegasus - Beal Mountain	147,849	0.7%	-	-	-	_				
02458 Reclamation & Development	1,414,378	6.5%	1,679,304	3.2%	1,564,217	8.9%				
02521 Pegasus Bankruptcy/Operations	765,965	3.5%	1,500,000	2.9%	-	_				
02777 Open Cut Mining Permit Fees	-	_	166,732	0.3%	157,278	0.9%				
02845 Junk Vehicle Disposal	1,574,877	7.2%	1,961,807	3.8%	2,065,869	11.7%				
02945 Zortman Reclamation - Comp Bid	4	0.0%	-	_	-	_				
02946 Landusky Reclamation-Comp Bid	2,667,014	12.2%	_	_	_	_				
02947 Zortman/Landusky Nitrate Systm	-	_	_	_	_	_				
02952 Zortman Recl-Last (1,500.000)	388,640	1.8%	_	_	_	_				
02953 Landusky Recl-Last (1,500,000)	113,205	0.5%	_	_	_	_				
02954 Septage Fees	26,409	0.1%	29,883	0.1%	30,033	0.2%				
02960 Glacier General Insurance Co	1,704	0.0%	,	-		-				
02988 Hard Rock Mining Reclamation	-,	-	5,500,000	10.6%	_	_				
03040 Operator Training Reimbursemnt	151,098	0.7%	535,480	1.0%	548,369	3.1%				
03067 Dsl Federal Reclamation Grant	984,246	4.5%	1,043,977	2.0%	1,048,101	6.0%				
03071 Us Forest Service Agreement	4,370	0.0%	-		-,,	-				
03262 Epa Ppg	-	-	2,732,048	5.3%	2,665,514	15.1%				
03326 Blm For Zortman & Landusky	2,076,613	9.5%	4,000,000	7.7%	2,000,01.	-				
03433 Epa Perf Partnership Fy04-05	2,855,491	13.1%	-	-	_	_				
03434 Epa Data Integration	_,,-,-	-	_	-	-	_				
03436 Nps 04 Staffing & Support	88,652	0.4%	95,813	0.2%	96,073	0.5%				
03438 Brownsfield State Response	-	-	175,000	0.3%	-	-				
03440 Dw Srf 03	_	_	634,106	1.2%	635,255	3.6%				
03442 Dw Srf 03	123,071	0.6%	-	-	-	-				
03672 Forest Service - Beal Mtn	513,733	2.4%	_	-	_	_				
03687 Drinking Water Srf Ffy02	181,673	0.8%	_	_	_	_				
03798 Homeland Water System Security	137,343	0.6%	85,000	0.2%	85,000	0.5%				
03973 Epa Zortman/Landusky Eis	13,413	0.1%	-	5.276	-	-				
Grand Total	21,802,569	100.0%	51,721,493	100.0%	17,610,465	100.0%				

The division is funded with general fund and a variety of state and federal revenue sources. The general fund provides four percent of the total funding and supports operating expenses.

State special revenues consists of forfeited hard rock reclamation bonds, proceeds from reclamation bonds, and fees collected for various activities, such as air permits, junk vehicle fines, and subdivision reviews. The division also receives Resource Indemnity Trust (RIT) interest via the reclamation and development account.

Federal revenue sources include the Environmental Protection Agency, the Bureau of Land Management, and the Department of State Lands.

## **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

resent Law AdjustmentsFiscal 2006							Fiscal 2007						
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds			
Personal Services Vacancy Savings Inflation/Deflation Fixed Costs					889,552 (359,405) (26,861) 101,880					887,311 (359,304) (26,308) 105,386			
Total Statewide	Present Lav	v Adjustments			\$605,166					\$607,085			
DP 5001 - Air Operati	na Adiustme	nt											
of Joor - All Operation	0.00	1,803	78,413	9,914	90,130	0.00	1,935	84,188	10,645	96,768			
DP 5002 - Industrial &		,	,	>,>11	70,130	0.00	1,755	01,100	10,015	70,700			
	0.00	4.171	97,276	24,859	126,306	0.00	3,316	39,706	30,166	73,188			
DP 5003 - Environmer	ntal Mgmt Bu	ıreau Admin Ope	,	,			- ,-	,	,	,			
	0.00	17,080	34,678	0	51,758	0.00	18,143	36,837	0	54,980			
DP 5004 - Hard Rock	and MFSA P	rojects Operating	Adjustments										
	0.00	0	25,054,772	1,391,871	26,446,643	0.00	0	(4,493,312)	(2,608,129)	(7,101,441)			
DP 5005 - Public Wate	er & Subdivis	sions Operations	Adjustment										
	0.00	0	76,325	458,086	534,411	0.00	0	75,176	473,273	548,449			
DP 5006 - Water Prote	ction Bureau	Operating Adjus	stment										
	0.00	2,210	34,430	22,397	59,037	0.00	2,395	37,544	23,569	63,508			
DP 5007 - PCD Admir	nistration Ope	erating Adjustme	nt										
	0.00	0	5,000	0	5,000	0.00	0	5,000	0	5,000			
DP 5008 - Waste & Ui	0	<i>U</i> 1	0 3										
	0.00	1,069	179,762	650	181,481	0.00	1,407	184,306	2,632	188,345			
DP 5010 - Water Prote			Ç										
	5.00	0	371,702	0	371,702	5.00	0	342,079	0	342,079			
DP 5011 - Air Permitti													
	3.00	0	401,137	0	401,137	3.00	0	362,113	0	362,113			
DP 5013 - Air Quality													
	0.00	0	0	50,000	50,000	0.00	0	0	0	0			
DP 5015 - Public Wate													
	2.75	0	81,807	59,450	141,257	2.75	0	72,685	59,450	132,135			
DP 5016 - Increase Gr													
DD 5010 D 1	0.00	0	316,599	0	316,599	0.00	0	431,998	0	431,998			
DP 5018 - Permitting &					4.000	0.00				- 000			
DD 5004 D 101	0.00	0	4,932	0	4,932	0.00	0	5,022	0	5,022			
DP 5024 - Permitting &				0	150,000	0.00	0	0	0	0			
DP 5025 - Subdivision	0.00	Daview.	150,000	0	150,000	0.00	0	0	0	0			
JP 3023 - Subdivision	0.00	neview 0	200,000	0	200,000	0.00	0	0	0	0			
Total Other Pre	ant I av A	liustmants											
Total Other Pre	sent Law At 10.75	\$26,333	\$27,086,833	\$2,017,227	\$29,130,393	10.75	\$27,196	(\$2,816,658)	(\$2,008,394)	(\$4,797,856)			
	10.75	<b>420,000</b>	+=.,000,000	Ψ <b>=</b> , <b>υ1</b> , <b>μ=</b> /	+=>,==0,00	10.75	<i>\$21,120</i>	(42,020,000)	(42,000,0074)	(4 .,. > 1,000)			
					\$29,735,559								

<u>DP 5001 - Air Operating Adjustment - The executive requests an operating adjustment to correct for an incorrect classification of a position, and to account for agency indirect changes resulting from increased staffing.</u>

<u>DP 5002 - Industrial & Energy Minerals Bur. Operating Adj</u> - The budget includes operating adjustments for FY 2006 of:

- \$50,000 for contracted services to support personal desktop GIS projects (FY 2007: \$5,000)
- \$38,249 to fund increased indirect charges due to increased staffing (FY 2007: \$42,143)
- \$24,269 for personal services due to an anticipated retirement payout and overtime (FY2007: \$6,365)
- \$2,500 for rent increases in non-state owned buildings (FY2007: \$7,791)
- \$11,288 for operating expenses including travel, field supplies and computers. (FY2007: \$11,889)

The adjustment would be funded with reclamation and development monies (\$97,726), federal reclamation dollars (\$24,589) and general fund (\$4,171).



Overtime expenditures are not part of the base budget. The FY 2004 spending level for overtime was \$1,931. The adjustment includes overtime authority of \$5,394 per year. If the legislature wishes to maintain the FY 2004 level of overtime expenditures, the decision package should be reduced by \$3,463, per year.

<u>DP 5003 - Environmental Mgmt Bureau Admin Operating Adjust - The executive request operating adjustments to pay</u> for increased costs for assistance on environmental assessment contracts, lab analysis, printing, and supplies, as well as restore travel and indirect assessments due to vacancies during the base year. This includes authority for the MFSA program that would fund the operating expenses deemed necessary by the department to work on projects no longer covered by fees but still required by law.

LFD ISSUE The Major Facility Siting Act (MFSA) went through a number of changes in the 2001 and 2003 legislative sessions. The legislature also found the purposes of MFSA are to: ensure the protection of the state's environmental resources; ensure the consideration of socioeconomic impacts; provide citizens with an opportunity to participate in facility siting decisions; and establish a coordinated and

efficient method for the processing of all authorizations required for regulated facilities. MSFA requires a certificate of compliance from the department for certain major pipelines and electric transmission lines. When the act was amended, certification criteria were changed. However, monitoring requirements were not. This created the situation where a site that met the criteria before the statute change still needs to be monitored although it does not need to be certified under current criteria. The monitoring is now done as required, but without fees. The legislature may wish to propose legislation to correct this situation and provide for the collection of fees for monitoring activity.

<u>DP 5004 - Hard Rock and MFSA Projects Operating Adjustments - The executive budget includes \$26.5 million in FY 2006 and a reduction of \$7.1 million in FY 2007 for projects administered by the hard rock and MFSA programs. Projects include contracted reclamation of MFSA review activities and mine sites. Funding includes \$5.5 million in funds raised from the sale of general obligation bonds, \$19.3 million in bond forfeitures or settlement agreements, \$1.4 million in federal hard rock monies, and \$0.3 million in MFSA fees.</u>

LFD COMMENT The majority of the funding under this decision package is from forfeited reclamation bonds or various financial settlements. This funding is specific to the sites and the corporations mining in Montana. Reclamation is an ongoing process where bonds and settlements occur throughout the life

of the mining project. The authority requested represents an estimate of the work that may be completed in the 2007 biennium. The executive is requesting a restricted biennial appropriation.

<u>DP 5005 - Public Water & Subdivisions Operations Adjustment - The department requests operational costs adjustments in the public water and subdivision bureau. The adjustment includes:</u>

- \$22,370 for anticipated overtime
- \$21,583 in contract services
- \$25,814 in employee travel
- \$173,076 of non-employee travel
- \$6,633 for rent in non-state owned buildings

- \$173,600 for training
- \$97,028 of increased indirect costs due to increased staffing for each year

Funding is from state special revenue of public drinking water fees, hazardous waste/CERCLA funds, and subdivision review, supplemented with federal dollars for wastewater operator training, EPA partnership grant, and drinking water dollars. The adjustment is the result of vacancies and conversion of operator certification testing and study materials to nationally accepted standards.



Expenditures for overtime are not part of the base budget. The FY 2004 spending level for overtime was \$15,745. The decision package includes overtime authority of \$22,370 per year. If the legislature wishes to maintain the FY 2004 level of overtime expenditures, the decision package should be reduced by \$6,625 per

year.

In addition, DP 5015 adds 2.5 FTE to the public water program and 0.25 FTE to the subdivision program. The department contends that overtime is still needed with the new FTE due to fluctuating workload in the two programs. The legislature may wish to consider approving either the overtime or the FTE since both would address the workload issues.



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative

<u>DP 5006 - Water Protection Bureau Operating Adjustment - The executive requests \$122,545 over the 2007 biennium to restore \$16,000 of analytical costs, \$30,620 for travel, and \$73,565 of increased indirect costs due to vacancies in the base year.</u>



Increases Due to Base Year Vacancies

Funds are requested to increase operating costs due to vacancies in the base year. For a discussion of department vacancies, please see the agency narrative

<u>DP 5007 - PCD Administration Operating Adjustment - The executive requests an operating adjustment of \$5,000 for each fiscal year of the 2007 biennium. This addition would fund \$3,000 of contracted services to assist with personnel issues and increase travel by \$2,000. This would be funded with state special revenue from the reclamation and development fund.</u>



Please see the agency wide issue on the use of RIT accounts located in the summary section of DNRC.

<u>DP 5008 - Waste & Underground Tank Mngmt Operating Adj - The executive requests an operating adjustment in the solid waste, asbestos, and junk vehicle programs. This amount includes in each year of the biennium:</u>

- \$2,079 for overtime commensurate with FY 2004 expenditures
- \$88.090 hired hauling cost for the removal of abandoned vehicles
- \$44,164 in contracted services
- \$1,000 for field equipment
- \$1.273 for computer hardware

Indirect cost increases due to increased staffing would add \$30,175 in FY 2006 and \$37,039 in FY 2007. Funding would come from state special revenue consisting of fees collected for the management of the programs and the general fund.

<u>DP 5010 - Water Protection Bureau Wastewater Permitting - The budget includes the addition of 5.00 FTE and \$371,702 in FY 2006 and \$342,079 in FY 2007 to increase the efficiency in the permitting processing. This request adds fees from pollutant discharge elimination permits to fund FTE to eliminate work backlog and address anticipated increases in the permitting program due to coal bed methane development. The 5.00 FTE would include two permit writing staff, one engineer, one water quality specialist data expert, and one administrative support position. The request includes \$125.871 of indirect costs over the biennium.</u>



Please see the agency-wide issue on recruitment and retention of employees.

<u>DP 5011 - Air Permitting of Oil and Gas Production - The executive requests 3.00 FTE and \$401,137 in FY 2006 and \$362,113 in FY 2007 for an anticipated increase in permit applications from facilities in the oil and gas industry. The department has determined that there is a significant number of existing emission sources associated with oil and gas wells operating without air quality permits, as required under current law. This is a newly discovered source of pollution. Approximately 900 facilities are expected to submit applications to obtain initial air quality permits in the first year of the next biennium. The FY 2006 request includes \$131,832 of personal services, \$162,036 contracted services, and \$58,419 in operating expenses related to new FTE, such as travel, communication and computers, \$13,040 in rental costs for non-owned state building and a vehicle lease, and increased indirect costs of \$35,810. FY 2007 request is lower due to one-time equipment costs and lower contracted services.</u>



The estimated 900 facilities would be required to apply for air quality permits. In subsequent years a renewal process must be completed for facilities to remain in compliance. This is not one time activity.

<u>DP 5013 - Air Quality Research Technical Study-OTO - The executive budget includes a \$50,000 one-time-only restricted appropriation in FY 2006 to conduct emission sampling and analysis to establish unique PM-2.5 emission "fingerprints" for PM-2.5 sources in the Libby area. PM-2.5 is a fine particulate standard adopted several years ago by the EPA. Funding would come from the EPA Performance Partnership Grant.</u>

<u>DP 5015 - Public Water Supply & Subdivision FTE - The department requests 2.75 FTE and \$141,257 in FY 2006 and \$132,135 in FY 2007 to meet mandated water system plan review processing time frames, and provide for plan review engineers to complete pre-application meetings with water system design consultants, owners, and operators. The FY 2006 request includes \$88,236 of personal services, \$25,651 in operating expenses related to new FTE such as travel, communication, training and computers, \$5,500 increased rent for a non-owned state building, and increased indirect costs of \$22,370. FY 2007 request is lower due to one-time equipment costs. State special revenue derived from subdivision review and public drinking water fees would provide most of the funding, the remainder would come from the EPA partnership grant and the federal drinking water program.</u>

LFD ISSUE DP 5005 provides for overtime expenditures in this bureau. The legislature may wish to consider approving either the overtime or the FTE since both would address the workload issues.

Please see the agency-wide issue on recruitment and retention of employees.

<u>DP 5016 - Increase Grants to Counties - The executive requests funding to increase grant authority to counties for the subdivision and junk vehicle programs.</u>

- Subdivision The increase of \$60,000 each year is due to an increase in the number of counties contracting with the department to perform subdivision reviews, and the corresponding increase in payments to the counties. Funding is from subdivision plat review fees.
- Junk Vehicle The increase of \$256,599 in FY 2006 and \$371,998 in FY 2007 is due to increased numbers of vehicles being registered in Montana each year. Funding is from the junk vehicle disposal fee collected as a part of the vehicle registration process.

<u>DP 5018 - Permitting & Compliance Division - Vehicles - The executive budget requests \$4,932 in FY 2006 and \$5,022 in FY 2007 of state special revenue for one leased vehicle from the state Motor Pool. Funding would be provided with asbestos control fees.</u>

<u>DP 5024 - Permitting & Compliance Division Data Management - The budget includes a \$150,000 one-time-only, restricted appropriation for FY 2006 to continue data development projects currently in place, and for maintenance of data management systems already in place. Projects being developed are for air, hard rock, and open cut programs. Funding for maintenance is in the junk vehicle, solid waste, underground storage tank, and water discharge programs, and funded from those sources.</u>

<u>DP 5025 - Subdivision Training & Review - The executive requests a \$200,000 restricted, one-time-only, biennial appropriation that would provide training to realtors, developers, consultants, engineers, and county officials on the procedures of subdivision design and review under the requirements of the Sanitation in Subdivisions Act. The decision package would also allow for contracting with an outside entity to assist in subdivision plan reviews to deal with fluctuating workload.</u>



The proposed training is designed to increase the number of correct and complete applications received by the department. If this occurs, processing time would be reduced, as extra steps would be eliminated. The decision package also contains funding for contract services to provide review in times of peak workload as review work fluctuates based on the degree of activity in the real estate

market.

New FTE and overtime funding is also requested to address the workload issues in the bureau.

**New Proposals** 

New Proposals										
		Fi	scal 2006		]	Fiscal 2007				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 5020 - Hazar	dous Waste - Bro	wnsfield Biennia	al Authority							
5	0.00	0	0	175,000	175,000	0.00	0	0	0	0
DP 5022 - Open	cut Additional Sta	ıff								
5	0 2.75	0	169,101	11,564	180,665	2.75	0	159,563	11,404	170,967
DP 5026 - RHOI	DIA Settlement									
5	0.00	0	0	(172,300)	(172,300)	0.00	0	0	(172,300)	(172,300)
Tota	al 2.75	\$0	\$169,101	\$14,264	\$183,365	2.75	\$0	\$159,563	(\$160,896)	(\$1,333)

<u>DP 5020 - Hazardous Waste - Brownsfield Biennial Authority - The executive requests a \$175,000 biennial appropriation of federal Brownsfield funding to continue contracted technical assistance for the review of contaminated sites redevelopment proposals. The purpose of the federal grant is to encourage the reuse and redevelopment of contaminated properties as commercial or industrial sites.</u>

<u>DP 5022 - Opencut Additional Staff - The executive requests \$180,665 in FY 2006 and \$170,967 in FY 2007 for 2.75 FTE for the open cut reclamation program. The positions and associated costs would deal with the expected continuation of high numbers of new permit applications for sand and gravel mines. The FY 2006 request includes \$110,506 of personal services, \$30,370 in operating expenses related to new FTE such as travel, communication, and computers, \$11,756 in rental costs for non-owned state buildings, one additional leased vehicle, and increased indirect costs of \$28,033. The FY 2007 request is lower due to one-time equipment costs.</u>



Please see the agency-wide issue on recruitment and retention of employees.



Legislation for increased fees is being proposed to fund the new open cut staff. The proposal is to eliminate the \$50.00 application fee and replace it with an annual operating fee on all permitted facilities.

<u>DP 5026 - RHODIA Settlement -</u> A reduction of \$172,300 each year of the 2007 biennium is included in the executive budget. The funding would be replaced with non-appropriated private funds received from the Rhodia settlement. This court awarded the department \$1.8 million in restitution for violations of the state's hazardous waste permitting requirements. The court directed the money be used in implementing the state's hazardous waste program.

# **Program Proposed Budget**

The following table summarizes the executive budget proposal for this program by year, type of expenditure, and source of funding.

Program Proposed Budget								
	Base	PL Base	New	Total	PL Base	New	Total	Total
	Budget	Adjustment	Proposals	Exec. Budget	Adjustment	Proposals	Exec. Budget	Exec. Budget
Budget Item	Fiscal 2004	Fiscal 2006	Fiscal 2006	Fiscal 2006	Fiscal 2007	Fiscal 2007	Fiscal 2007	Fiscal 06-07
FFF	6.00	0.00	0.00	6.00	0.00	0.00	6.00	6.00
FTE	6.00	0.00	0.00	6.00	0.00	0.00	6.00	6.00
Personal Services	191,869	76,369	0	268,238	75,693	0	267,562	535,800
Operating Expenses	243,292	82,268	0	325,560	82,405	0	325,697	651,257
<b>Total Costs</b>	\$435,161	\$158,637	\$0	\$593,798	\$158,098	\$0	\$593,259	\$1,187,057
State/Other Special	435,161	158,637	0	593,798	158,098	0	593,259	1,187,057
<b>Total Funds</b>	\$435,161	\$158,637	\$0	\$593,798	\$158,098	\$0	\$593,259	\$1,187,057

## **Program Description**

The Petroleum Tank Release Compensation Board is attached to the department for administrative purposes. The purpose of the board is to administer the petroleum tank release cleanup fund. This includes reimbursement to petroleum storage tank owners and operators for corrective action costs, and compensation paid to third parties for bodily injury and property damage resulting from a release of petroleum from a petroleum storage tank. The board has a staff of 6.00 FTE.

## **Program Highlights**

# Petro Tank Release Compensation Board Major Budget Highlights

- The executive is recommending an increase of \$70,000 per year for increased legal services and fees
- Statewide adjustments make up the remaining increases

## **Funding**

The following table shows program funding, by source, for the base year and for the 2007 biennium as recommend by the Governor.

Program Funding Table											
Petro Tank Release Comp.											
	Base	% of Base	Budget	% of Budget	Budget	% of Budget					
Program Funding	FY 2004	FY 2004	FY 2006	FY 2006	FY 2007	FY 2007					
02058 Petroleum Storage Tank Cleanup	\$ 435,161	100.0%	\$ 593,798	100.0%	\$ 593,259	100.0%					
Grand Total	\$ 435,161	100.0%	\$ 593,798	100.0%	\$ 593,259	100.0%					

The board is funded solely through a portion of the \$0.0075 fee on gasoline, diesel, heating oil, and aviation fuel distributed in Montana.

## **Present Law Adjustments**

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustme	ents									
	Fiscal 2006						F	iscal 2007		
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					87,546					86,841
Vacancy Savings					(11,177)					(11,148)
Inflation/Deflation					(74)					(73)
Fixed Costs					12,342					12,478
Total Statewide	e Present Law	v Adjustments			\$88,637					\$88,098
DP 9001 - Petro Board	d Operating A	djustment								
	0.00	0	70,000	0	70,000	0.00	0	70,000	0	70,000
Total Other Pr	esent Law Ad	liustments								
	0.00	\$0	\$70,000	\$0	\$70,000	0.00	\$0	\$70,000	\$0	\$70,000
Grand Total All	Present Law A	Adjustments			\$158,637					\$158,098

<u>DP 9001 - Petro Board Operating Adjustment - The executive budget includes a base adjustment of \$70,000 in state special revenue each year of the 2007 biennium for increased legal activity associated with claim subrogation.</u>

## Language

The executive is recommending the following language:

"The department is authorized to expend up to 25 percent of subrogated petroleum tank release compensation funds to pay contract expenses associated with release subrogation activities. Expenditure of these funds is limited to the fee charged for collection."